



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-03-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

SA No. 233 of 2026

C.K.Annamalai
No. 48/63, Srinivasa Perumal Sannadhi,
1st Street, Royapettah, Chennai-14.

..Appellant(s)

Vs

G.Sivalingam,
Chinthalpadi Village and Post,
Pappireddipatty Taluk,
Dharmapuri District.

..Respondent(s)

Prayer: Second Appeal filed under Section 100 of CPC to set aside the Judgment and Decree dated 10.03.2021 made in AS No.25 of 2015 on the file of Subordinate Judge, Harur, Confirming the Judgment and Decree dated 10.07.2014 made in OS No. 116 of 2012 on the file of District Munsif Cum Judicial Magistrate, Pappireddipatty, by allowing the Second Appeal.

For Appellant(s): Mr. A.Arokiadoss

JUDGMENT

The unsuccessful plaintiff is the appellant herein. The appellant/ plaintiff filed a suit in O.S.No.116 of 2012 for recovery of mesne profits from the respondents for their unlawful possession. The suit was dismissed by the Trial Court and the appeal filed by the plaintiff/appellant was also dismissed by the



first appellate court. Aggrieved by the concurrent findings of the courts below, the plaintiff has come before this court.

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2. According to the plaintiff/appellant, the suit properties, which were agricultural land measuring to an extent of 11.34 acres at Buddireddipatty Village Pappireddipatty, Dharmapuri District belonged to him and his two daughters. Since the appellant and his daughters are residing in Chennai, they were not in a position to maintain the land. Therefore, the suit property was leased out to the defendants on 29.12.2006 for a period of 3 years. As per the terms of lease agreement, the defendant has to pay a sum of Rs.30,000/- per year. Though the defendant paid the rent for the first year, he committed default to pay the same for the subsequent two years. Separate legal proceedings have been initiated against the defendant for recovery of mesne profit in respect of the default committed by him for the subsequent two years. The lease period got expired on 28.12.2009. Thereafter, the possession of the property by the defendant is not under lease and hence, his possession is unlawful. Therefore, the defendant is liable to pay Rs.30,000/- to the plaintiff for his unlawful possession over the property and the plaintiff filed the instant suit seeking direction to the defendant to pay a sum of Rs.30,000/- towards mesne profits for the year 2010-2011.



3. The defendant failed to file written statement and he remained exparte before the Trial Court.

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4. Before the trial court, the plaintiff was examined as PW1 and the sale deeds in the name of plaintiff and his daughters were marked as Ex.A1 to Ex.A4.

5. The Trial court on consideration of evidence of PW1 and the documents marked, dismissed the suit. Aggrieved by the same, the plaintiff preferred an appeal in A.S.No.25 of 2015 and the same was also dismissed by the first appellate court. Challenging the concurrent findings of the courts below, the plaintiff has filed the present second appeal.

6. The learned counsel for the appellant would submit that the respondent has not even filed written statement and resisted the suit. In the absence of any counter plea by the respondent/defendant, the courts below ought to have believed the evidence of appellant/plaintiff and decreed the suit as prayed for.

7. It is settled law that merely because the defendant failed to file written statement and remained exparte, the plaintiff is not entitled to get a decree as prayed for in the suit. Further, the exparte decree is also a valid and enforceable decree like any decree passed after full contest. The plaintiff must lead proper



evidence in support of his case and only if the court is satisfied with the case pleaded by the plaintiff, decree can be passed. As per the averments found in the plaint, the suit property was purchased by him and his daughters. However, his daughters were not impleaded as parties to the suit. Though it is stated by the plaintiff that his daughters have given power in his favour, the power of attorney has not been produced. Further, in the plaint, the plaintiff was not described as power of attorney holder of his daughters. Therefore, it is clear that the plaintiff is not owner of the entire extent of the property and a sizeable extent is owned by his daughters. In the plaint, there is no clarity as to what was the extent of the property given to the defendant under lease by the plaintiff and what was extent leased out by the plaintiff's daughters. The courts below rightly came to the conclusion that the suit is barred by non joinder of necessary parties, namely daughters of the plaintiff.

8. Further, the plaintiff has to prove that the defendant who is in unlawful occupation of the property, received profits from the property. In respect of potential of the land to yield profits, there must be some evidence on the side of the plaintiff. Except the title documents in the name of the plaintiff and his daughters, the plaintiff has not produced any revenue documents to establish the yield from the suit property. In the absence of any evidence to show that the suit property yielded profits, both the courts below rightly found that the plaintiff failed to establish his case and dismissed the suit. I do not find any perversity in the approach of the courts below.



9. Accordingly, the second appeal stands dismissed, confirming the concurrent findings of the courts below. There shall be no order as to costs.

24-03-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MST

To

1. The Subordinate Judge, Harur.

2. The District Munsif Cum Judicial Magistrate, Pappireddipatty.



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S.SOUNTHAR, J.

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