



S.A.No.205 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A.No.205 of 2026

Manickam

... Appellant

VS.

1.Srinivasan

2.Babiammal

3.Ramamoorthy

Senthil (dead)

4.Dhandapani

Murugavel (dead)

5.Elavarasi

6.Sambath Kumar

... Respondents

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to allow the Second Appeal by setting aside the Judgment and Decree dated 09.10.2025 passed in A.S.No.34 of 2019 on the file of the Sub-Court, Madurantagam confirming the Judgment and Decree dated 19.02.2018 passed in O.S.No.67 of 2007 on the file of the District Munsif Court, Madurantagam.



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For Appellant : Mr.K.Govi Ganesan
For R3 : Ms.T.N.Sona
for M/s.V.Srimathi

J U D G M E N T

The unsuccessful plaintiff in a suit for declaration of title and recovery of possession is the appellant.

2. The plaintiff filed a suit for declaration of title and recovery of possession and he also sought for a declaration that the Sale Deed executed by the 1st defendant in favour of 8th defendant dated 20.05.2009 was null and void. The Trial Court dismissed the suit. The first appeal filed by the appellant was also dismissed by the First Appellate Court by confirming the findings of the Trial Court. Aggrieved by the concurrent findings, the appellant/plaintiff has come before this Court.

3. According to the appellant/plaintiff, the suit property originally belonged to three persons namely Samarapuri Mudaliar, Dharmalinga Mudaliar and Viswanatha Mudaliar. The appellant is the son of Dharmalinga Mudaliar. The above said Samarapuri Mudaliar was succeeded



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by his two sons namely Ramasamy and Narayanasamy. The 1st defendant in the suit is the only son of Narayanasamy. The other son of Samarapuri Mudaliar namely Ramasamy died leaving behind the 2nd defendant, his daughter in law and defendants 3 and 4, sons of his only son Govindasamy, as his legal representatives. Therefore, the defendants 1 to 4 are descendants of Samarapuri Mudaliar. The above said Viswanatha Mudaliar had only one son namely Thangaraj and after the death of said Thangaraj, his sons are arrayed as defendants 5 and 6. It is also admitted by the plaintiff that the patta for the suit property stands in the joint names of original three owners. It is the claim of the plaintiff that in SLR Extract, 66 cents of land in the suit survey number has been mentioned in the name of appellant's father Dharmalinga Mudaliar. It is also claimed that the appellant has been enjoying 66 cents of land left by his father in the suit property, which is on the Western Side.

4. It is the further case of the appellant that the respondents 1 to 4/defendants maneuvered to secure patta in their names without the knowledge of the appellant/plaintiff. During November-2006, the defendants 1 to 4 trespassed into the suit property and put up a fence. Therefore, the appellant was constrained to file a suit for above said reliefs.



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In nutshell, the sum and substance of the case of the appellant is that he is entitled to 66 cents of land on the Western Side of the suit survey number and another 66 cents shall go to Thangaraj Mudaliar S/o.Viswanatha Mudaliar. The remaining 3.12 acres should go to the heirs of Samarapuri Mudaliar.

5. The defendants 2 and 3 filed written statement denying the title of the plaintiff over the suit property. According to the defendants 2 and 3, the great-grandfather-Samarapuri, grandfather-Ramasamy and his brother Narayanasamy and later their father Govindasamy alone individually enjoyed the S.No.48/3 and the defendants family alone have been enjoying the entire extent in S.No.48/3C along with S.No.48/3E, which is situated on immediate Eastern Side of S.No.48/3C, after due sub-division. It is the specific case of the defendants 2 and 3 that the entire extent of 4.44 acres in undivided S.No.48/3 has been in possession and enjoyment of heirs of Samarapuri Mudaliar for the past four generations and openly to the knowledge of entire villagers including the plaintiff. Thus, the defendants claim prescriptive right over the suit property. It was also claimed by the defendants 2 and 3 that the plaintiff's father name was wrongly added in the alleged SLR Extract and based on that, the plaintiff is not entitled to claim



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title over the suit property. On these pleadings, they sought for dismissal of the suit.

6. The Trial Court based on the pleadings of the parties, formulated the following issues for consideration:-

1. *Whether the Plaintiff has right and title over the Plaint schedule of property?*
2. *Is the Plaintiff entitled for the relief of Declaration and recovery of possession?*
3. *What are all the other reliefs and cost Plaintiff is entitled for?*

7. Before the Trial Court, the son of the plaintiff was examined as PW.1 and on his behalf, 14 documents were marked as Exs.A1 to A14. On behalf of the defendants, 3rd defendant was examined as DW.1 and no document was marked.

8. The Trial Court on appreciation of oral and documentary evidence available on record, came to the conclusion that the plaintiff failed to prove his title over the suit property and dismissed the suit. Aggrieved by the



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same, the plaintiff filed an appeal in A.S.No.34 of 2019 on the file of the Subordinate Court, Madurantakam and the First Appellate Court concurred with the findings of the Trial Court and dismissed the appeal. Aggrieved by the concurrent findings, the appellant/plaintiff has come before this Court by filing the second appeal.

9. The learned counsel appearing for the appellant by taking this Court to Ex.A3-SLR Extract would submit that 66 cents of property has been earmarked in the name of the plaintiff's father Dharmalinga Mudaliar in the above mentioned document and therefore, the plaintiff established his right over the suit property. The learned counsel also submitted that the defendants have not produced any documents to establish their right over entire extent of 4.44 acres in the suit survey number and hence, in the light of Ex.A3, the Trial Court ought to have decreed the suit.

10. A perusal of the plaint averment would indicate that the plaintiff categorically admitted the total extent of land available in suit S.No.48/3 is 4.44 acres. It was also admitted that the entire extent was originally owned by Samarapuri Mudaliar, Dharmalinga Mudaliar and Viswanatha Mudaliar. The plaintiff claims that he is son of Dharmalinga Mudaliar and after his



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death, he has been in possession and enjoyment of 66 cents of land on the Western Side of the suit survey number.

11. Once the plaintiff admits that the entire extent was owned by three persons, how the plaintiff is entitled to lay claim over 66 cents of property on the Western Side exclusively is not clear from the pleadings. It is not the case of the plaintiff that there was partition arrangement among the co-owners and the present suit property with an extent of 66 cents on the Western Side of the suit survey number was allotted to the share of his father. In the absence of any foundation plea that 66 cents of property on the Western Side of the suit survey number was exclusively allotted to plaintiff's father, the plaintiff is not entitled to file a suit for declaration of title and possession, in view of the clear admission in the plaint that entire extent was originally owned by three persons including his father and defendants predecessor-in-title.

12. In Ex.A3-SLR Extract produced by the plaintiff, the name of the plaintiff's father found place and 66 cents have been mentioned against his name. Likewise, the name of Samarapuri Mudaliar and Viswanatha Mudaliar also mentioned in the above said SLR Extract. However, merely



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because, 66 cents stands in the name of plaintiff's father-Dharmalinga Mudaliar in the SLR Register, we cannot jump to the conclusion that the plaintiff's father was entitled to exclusive right over 66 cents on the Western Side in the absence of any plea or evidence to show that 66 cents on the Western Side was exclusively allotted to his father. Therefore, in the light of the averment made by the plaintiff in his plaint, this Court is not in a position to come to the conclusion that the suit property which lies on the Western Side of the suit S.No.48/3 is exclusively belonged to the plaintiff. Hence, the plaintiff miserably failed to prove his exclusive title over the suit property. Both the Courts below rightly appreciated the same and dismissed the suit. I do not find any perversity in the findings arrived at by both the Courts below and no substantial question of law arising for consideration in this second appeal.

13. At this juncture, the learned counsel appearing for the appellant would submit that a liberty may be given to the appellant/plaintiff to file a suit for partition claiming allotment of 66 cents in the suit survey number.

14. If the appellant feels that he is entitled to maintain a suit for partition as a co-owner, it is always open to him to file a suit with



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appropriate prayer. If any such suit is filed, the respondents are entitled to set-up all the defences including the plea of limitation.

15. **In Nutshell**:-

- (i) The Second Appeal stands dismissed by confirming the judgment and decree passed by the Courts below.
- (ii) In the facts and circumstances of the case, there will be no order as to costs.

04.03.2026

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

- 1.The Sub-Court,
Madurantagam.
- 2.The District Munsif Court,
Madurantagam.



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S.SOUNTHAR, J.

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