



WEB COPY

SA No. 224 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-03-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

**SA No. 224 of 2026 and
CMP.No.5982 of 2026**

1. Manickam
2. Vedyappan
3. Rani
4. Vasanthi
5. Sala

..Appellant(s)

Vs

Ayyavu

..Respondent(s)

Prayer: Second appeal is filed under Section 100 of Code of Civil Procedure, praying to set aside the Judgment and decree passed in A.S.No.49/2024 by the Principal District Judge, Dharmapuri, vide Order dated 14.10.2025.

For Appellant(s):

S.Sheik Ismail

JUDGMENT

The unsuccessful defendants are the appellants. The respondent herein filed a suit for declaration of title and recovery of possession. The Trial Court decreed the suit. Aggrieved by the same, the appellants/defendants preferred a first appeal and the first appellate court affirmed the findings of the trial Court. Aggrieved by the concurrent findings, the appellants/ defendants have come before this Court.



2. According to the respondent/plaintiff, the parties are the members of the family and there was a registered partition between the plaintiff and the defendants on 11.01.1990 and in the said partition, “B” schedule properties were allotted to the plaintiff. The suit properties were found mentioned in the ‘B’ schedule properties allotted to the plaintiff. Thus, according to the respondent, he had enjoyed the property all along from the date of partition. Subsequently, during March 2017, the defendants interfered with the possession of the plaintiff. It was proclaimed by them that 1st defendant obtained patta for the suit property and committed trespass into the suit property. Thereafter, on enquiry, the plaintiff came to know that 1st defendant obtained patta in his name and the defendants also created a collusive partition deed among themselves on 21.10.2016. Therefore, the instant suit has been filed by the respondent/plaintiff.

3. The appellants/defendants filed a written statement and denied the right of the respondent over the suit property. According to the appellants, there was a oral partition between the plaintiff and the defendants in the year 1980 and the suit properties were allotted to the share of the defendants. Thereafter, for the purpose of obtaining loan, a registered partition deed was entered into on 11.01.1990 and in the said registered partition, the suit properties were inadvertently included as if it was allotted to the share of the plaintiff. It is the further case of the defendants that all along from the date of oral partition, the defendants have been in possession and enjoyment of the suit property and patta



was also transferred in the name of 1st defendant. Therefore, they sought for dismissal of the suit.

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4. Before the Trial Court, the plaintiff was examined as P.W.1 and two independent witnesses were examined on his side as P.W.2 and P.W.3. On behalf of the plaintiffs, six documents were marked as Ex.P1 to Ex.P6. On the side of the defendants, 2nd defendant was examined as D.W.1 and two other independent witnesses were examined as D.W.2 and D.W.3. 20 documents were marked on the side of defendants as Ex.B1 to Ex.B20.

5. The Trial Court, based on the oral and documentary evidence available on record, came to the conclusion that plaintiff established his title over the suit property under registered partition deed dated 11.01.1990 and decreed the suit as prayed for. Aggrieved by the said judgment and decree, the defendants preferred an appeal in A.S.No.49 of 2024 on the file of Principal District Judge, Dharmapuri. The first appellate court confirmed the findings of the trial court. Aggrieved by the concurrent findings, the defendants have come before this Court,

6. The learned counsel for the appellants submitted that the appellants/defendants have been in possession and enjoyment of the suit property from the year 1980 based on the oral partition between the parties and hence, the courts below committed an error in relying on the 1991 registered partition entered into between the parties for the purpose of obtaining loan in the bank. It is the specific submission of the learned counsel that 1991



registered partition was never acted upon and the plaintiff never enjoyed the property pursuant to the 1991 partition deed.

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7. The registered partition deed entered between the parties was marked as Ex.A1. The plaintiff himself was examined as P.W.1 and he deposed in accordance with his averments in the plaint. On behalf of the plaintiff, two other independent witnesses were examined. P.W.2 is the brother of father of the plaintiff and 1st defendant. He deposed that the suit property was allotted to the share of the plaintiff under Ex.A1, partition deed and he has been in possession and enjoyment of the said property from the date of partition. He further deposed that there was a land dispute for 5 to 6 years immediately preceding of filing of the suit between the plaintiff and the 1st defendant. The evidence of PW.2 was corroborated with the evidence of PW.3, who also deposed that there was a partition between the parties 30 years ago and the suit properties were allotted to the share of the plaintiff. The witness PW.3 has also signed Ex.A1 as attesting witness. Therefore, the plaintiff proved Ex.A1 by examining himself and also one of the attestor to the said document.

8. It is the case of the defendants that Ex.A1 is a nominal document and the same was executed just for the purpose of availing loan from the bank and therefore, the same was never acted upon. However, the evidence of independent witnesses PW.2 and PW.3 are complementary to each other and plaintiff proved the due execution of Ex.A1. Whenever there is a conflict between the registered document and the oral claim between the parties, the



weightage shall be given to the registered documents. Both the courts below clearly held that registered partition deed entered between the parties will override the plea of oral partition raised by the defendants.

9. It is also seen from the written statement filed by the defendants that there was some dispute between the parties with regard to the common well available in the suit property. However, even thereafter, the defendants have not taken any steps to set aside the registered partition deed. When the defendants failed to take any steps to cancel or set aside the registered partition deed till date, they are not entitled to rely on oral partition that have allegedly taken place in the year 1980 and question the validity of registered partition deed entered in the year 1990.

10. The learned counsel for the appellants/defendants vehemently contended that Ex.B1, patta transfer order passed in the year 1993, transferring patta for the suit property in the name of 1st defendant probablise the case of the defendants. A perusal of Ex.B1 would indicate that till the patta transfer order, the patta for the suit property stood in the name of plaintiff. Though order in Ex.B1 was passed in the year 1993 and the patta for the suit property was transferred to the name of 1st defendant, there is no evidence available on record to suggest that the plaintiff acquired knowledge about the patta transfer order in the year 1993 itself. In Ex.B1 proceedings, it was mentioned the copy of the proceedings was marked to plaintiff. However, no proof has been filed to prove the said copy was served on the plaintiff. In these circumstances, only based on



the patta transfer order, we cannot ignore the registered partition deed.

Whenever there is a conflict between the registered title document and the revenue records, the title document will prevail over the revenue records.

Therefore, the submission made by the learned counsel for the appellants based on Ex.B1 is also not appealable to this Court.

11. Both the courts below, based on registered partition deed between the parties, came to the conclusion that respondent/plaintiff established his title over the suit property and hence, he is entitled to recovery of possession. I do not find any substantial question of law arising for consideration in this second appeal.

12. Accordingly, the second appeal stands dismissed.

a) by affirming the judgment and decree dated 14.10.2025 made in A.S.No.49 of 2024 on the file of Principal District Judge, Dharmapuri.

b) In the above facts and circumstances of the case, there will be no order as to costs.

c) Consequently, the connected miscellaneous petition is closed.

03-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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To
The Principal District Judge, Dharmapuri.



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S.SOUNTHAR, J.

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