



WEB COPY

SA No. 565 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-04-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

**SA No. 565 of 2021 and
CMP Nos. 12157 of 2021 and 3651 of 2026**

M.Purushothaman
S/o.Murugappa Naicker, Old No.201,
New No.244, Velacherry Main Road,
Narayanapuram, Pallikaranai Post,
Chennai-600100

..Appellant(s)

Vs

1. Sirai Selvan
S/o.Dhanabalan, Old No.72/26, Perumal Koil
Street, Saidapet, Chennai-600015
2. V. Narayanan S/o. Vellayan,
3. Karpagam, W/o. V. Narayanan,
R2 and R3 are residing at OldNo.C-163,
New No.36, Cholan Street, MMDA Colony,
Arumbakkam, Chennai 106.

R2 and R3 impleaded vide court order dated
13.03.2026 made in CMP No.18570 of 2025
in S.A.No.565 of 202

..Respondent(s)

Prayer: Second Appeal is filed under Section100 of CPC to allow the Second Appeal and thereby setting aside the Judgment Decree dated 08.08.2017 passed in OS No.688/2008 on the file of the Additional District Munsif, Alandur, which is confirmed in Judgment and decree dated 05.02.2021 passed in AS No.1/2020 on the file of the Subordinate Judge, Alandur.



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For Appellant(s):

Mr. A.R.Nixon

For Respondent(s):

Mr.K.Elango for R1
for M/s.RGV Hari Hara Balan

Ms.Susanna Prabhu For R2 And R3

JUDGMENT

The unsuccessful plaintiff in a suit in O.S.No.688 of 2008 is the appellant herein and the first respondent herein is the sole defendant in the said suit.

2. The 2nd and 3rd respondents, who are the purchasers of the suit property from the sole defendant, pending second appeal, have been impleaded as parties/ 2nd and 3rd respondents in the second appeal.

3. The appellant/plaintiff filed the above said suit seeking permanent injunction against the first respondent/sole defendant. The suit was dismissed by the Trial court. As against the dismissal of suit, the appellant/ plaintiff filed first appeal in A.S.No.1 of 2020 and the same was also dismissed. Challenging the concurrent findings of the courts below, the appellant has filed the present second appeal.

4. It is the case of the plaintiff that the suit property originally belonged to his father Murugan Naicker. The total extent of the suit property was 3 cents



in survey No.43/11B in Pallikarani Village, Tambaram Taluk and patta was also issued in the name of the plaintiff's father by the government in patta No.10107.

It is also pleaded by the plaintiff that there was a oral partition between the plaintiff's father and his brother's wife Chinnammal, w/o Narayana Swamy with regard to total extent of 5 cents available in survey No.43/7B and in the said oral partition, 3 cents was allotted to the share of the plaintiff's father and 2 cents was allotted to the share of Chinnammal. Subsequently, the said Chinnammal sold the property allotted to her to one Kanniammal under sale deed dated 29.02.1948, which was marked as Ex.A2 equivalent to Ex.B3. It is the further case of the plaintiff that after death of his father, the plaintiff inherited and succeeded to the suit property from his father and he mortgaged the it in favour of one Siva Subramanian on 16.12.2005. The plaintiff further claimed that the defendant, who is stranger to the suit property attempted to interfere with his possession and therefore, he filed the instant suit seeking permanent injunction.

5. The sole defendant filed a written statement denying the possession and title of the plaintiff over the suit property. It is the case of the defendant that Chinnammal sold 5 cents of lands in survey No.43/7B to one Kanniammal under sale deed dated 29.02.1948 and thereafter, the said Kanniammal in turn sold 5 cents of land to one Gopinathan by virtue of a registered sale deed dated 03.07.1964, which was marked as Ex.B4. After purchasing the property, the



said Gopinathan formed layout in his properties, including the suit property and the defendant purchased plot No.45 from the said Gopinathan under sale deed dated 20.03.1989. According to the defendant, the said plot No.45 is situated partly in survey No.43/7 and partly in survey No.43/8. Therefore, it is the specific case of the defendant that the plaintiff's father Murugappa Naicker and Narayanasamy Naicker are brothers and after demise of Narayanasamy Naicker, 5 cents of land in survey No.43/7B was handed over to Narayanasamy's wife Chinnammal by way of family mutual arrangement. It is also stated by the defendant that the plaintiff by misinterpreting the sale deed executed by Chinnammal in favour of Kanniammal, obtained patta for an extent of 3 cents and the same will not confer any right in his favour. Therefore, he sought for dismissal of the suit.

6. Before the Trial Court, on the side of the plaintiff, he examined himself as PW1 and 11 documents were marked as Ex.A1 to Ex.A11. On the side of the defendant, he examined himself as DW1 and 14 documents were marked as Ex.B1 to Ex.B14.

7. The Trial Court, on appreciation of evidence available on record, came to the conclusion that the plaintiff has not proved his title and possession over 3 cents of suit property and dismissed the suit. Aggrieved by the same, the plaintiff preferred an appeal in A.S.No.1 of 2020 on the file of Subordinate



Judge, Alandur. The first appellate court by re-appreciating the evidence available on records, came to the conclusion that the suit for bare injunction simpliciter was not maintainable, without a prayer for declaration of title, since there was a dispute with regard to the title. Consequently, the first appeal was dismissed by the first appellate court, affirming the findings of the trial court. Aggrieved by the same, the plaintiff has filed the present second appeal.

8. The learned counsel for the appellant vehemently contended that, under the oral partition between plaintiff's father Murugappa Naicker and his brother's wife Chinnammal, only 2 cents were allotted to Chinnammal as her share, however, the defendant has unjustly claimed a right over 5 cents. It is further stated by him that the revenue documents like patta have been issued in the name of plaintiff. Hence, the plaintiff is entitled for permanent injunction, however, the courts below failed to take into consideration the material evidence available on record and dismissed the suit erroneously.

9. It is seen from the pleadings of the plaintiff that he clearly admitted about the oral partition between his father Murugappa Naicker and Murugappa Naicker's brother's wife Chinnammal. According to the plaintiff, Chinnammal was allotted only 2 cents of land and the same was sold by her to one Kanniammal under sale deed dated 29.02.1948. The boundary description found in Ex.A2 sale deed has been extracted in the judgment passed by the first



appellate court. A perusal of Ex.A2 filed in the typed set of papers would indicate that the said Chinnammal sold 5 cents with four boundaries to one Kanniammal. The learned counsel for the appellant by relying on figure 0.2.44 mentioned in the boundary description submitted that the above said boundary description shows that Chinnammal sold only 2 cents of land. On the other hand, it is the case of the defendant that 0.2.44 mentioned in the boundary description is a reference to the tax assessment and the same is not referring to the extent.

10. In Ex.A2, it was stated that S.No.43/7B.0.5.0.2.44. Therefore, we are not in a position to say with certainty what was the extent sold by Chinnammal to Kanniammal. However, in the boundary description, there is no mention about 2 cents. In the subsequent sale deed dated 03.07.1964 executed by Kanniammal in favour of Gopinathan, which was marked as Ex.B4, she sold 5 cents of land to the said Gopinathan. If Ex.B4 is read with Ex.A2, we can come to the conclusion that 5 cents of land was allotted to Chinnammal and the same was sold to Kanniammal. The registered sale deeds relied on by the defendant, namely sale deed dated 29.02.1948(Ex.A2) executed by Chinnammal in favour of Kanniammal and the sale deed dated 03.07.1964 (Ex.B4) executed by Kanniammal in favour of Gopinathan would certainly create serious cloud over the title of the plaintiff, especially when the plaintiff admitted the oral partition between his father Murugappa Naicker and Chinnammal.



11. The first appellate court by relying on the ratio laid down by the Apex Court in *Anathula Sudhakar Vs. P.Buchi Reddy 9dead) by Lrs and others reported in (2008) Supreme Court Cases 594* held that in view of the dispute with regard to the title, the suit for bare injunction filed by the plaintiff was not maintainable. I don't find any perversity in the findings reached by the first appellate court, in view of the serious dispute with regard to the title, as mentioned above. Therefore, I do not find anything to interfere with the findings of the first appellate court, as there is no substantial question of law arising for consideration in the second appeal.

12. However, the observations made by the courts below with regard to the title of either side will not affect their right to file a comprehensive suit for declaration of title and necessary consequential reliefs.

13. With the above clarification, this second appeal is dismissed. There shall be no order as to costs. Connected miscellaneous petitions are closed.

09-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

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1. The Subordinate Judge, Alandur.
2. The Additional District Munsif, Alandur.



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S.SOUNTHAR, J.

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