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SA No. 518 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-01-2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

SA No. 518 of 2015

S. Vasanthammal
W/o Late Srinivasan
No. 5/175, Sipcot Emerald Nagar,
Navloc, Ranipet

..Appellant

Vs

A. Gunalan
S/o Annamalai
Ranganathan Koil Street,
Manthangal Mottur Village,
Walajah Taluk.

..Respondent

Prayer:

Second Appeal has been filed under Section 100 of C.P.C., to set aside the Judgment and Decree dated 11.02.2013 made in A.S.No.58 of 2011 on the file of the learned Subordinate Judge, Ranipet reversing the Judgment and Decree dated 23.09.2010 made in O.S.No.72 of 2009 on the file of learned District Munsif, Ranipet.

For Appellant:
For Respondent:

Mr.T.P.Prabakaran
Mr.V.S.Ramesh Kumar

JUDGMENT

This Second Appeal has been preferred as against the Judgment and Decree passed by the learned Subordinate Judge, Ranipet in A.S.No.58 of



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2011 dated 11.02.2013, wherein the respondent herein has preferred the Appeal challenging the decree and Judgment passed by the District Munsif, Ranipet in O.S.No.72 of 2009 dated 23.09.2010.

2. The appellant herein, who is the plaintiff, has filed the suit before the trial court for the relief of Declaration and the same was decreed in favour of the plaintiff. Aggrieved by the said Decree and Judgment, the respondent, who is the defendant has preferred the First Appeal. The First Appellate Court reversed the Judgment and dismissed the suit, aggrieved by the said decree and Judgment, the appellant, who is the plaintiff has filed the present Second Appeal.

3. For the sake of convenience and brevity, the parties in this Second Appeal are referred as plaintiff and defendant, as referred before in the trial court.

4. The brief averments of the plaint filed by the plaintiff are as follows:-

The suit property originally belonged to one Munusamy and he had four sons, namely, Annamalai, Srinivasan, Raji and Ganapathy. The plaintiff is the daughter-in-law of Munusamy and wife of Srinivasan. The 1st defendant is the grand son of the said Munusamy and son of Annamalai. The plaintiff is



working as servant maid at SIPCOT. After the demise of said Munusamy the said four sons orally divided the property into equal shares and the schedule property was allotted to the plaintiff's husband, viz., Srinivasan. Taking advantage of the demise of Srinivasan, the defendant refused to give due share to the plaintiff. In spite of repeated request made by the plaintiff, the defendant failed to give the property to her. Now only the plaintiff came to know that the defendant and his family members creating encumbrance over the schedule property and they have no right to create encumbrance over the property. Now the defendant is trying to interfere with the plaintiff's possession and enjoyment of the property, therefore, filed the suit.

5. The brief averments of the written statement filed by the defendant are as follows:-

(i) The allegations made in the plaint are denied as false and the plaintiff is put to strict proof of the allegation made in the plaint except those that are specifically admitted by the defendant. The averments that Munusamy had four sons; they divided the properties; the schedule property was allotted to the share of Srinivasan; the plaintiff is the wife of Srinivasan and got two children and the defendant refused to give share to the plaintiff, are all denied as false.

(ii) The defendant does not know about the plaintiff and the said Srinivasan was lunatic child of the said Munusamy. During the life time of



Munusamy, the said Srinivasan was abandoned and whereabouts were not known at all. The said Srinivasan was not in a position to get married as he was lunatic. The plaintiff never got married with the said Srinivasan at any point of time. The plaintiff is a stranger to the said property and she has no right over the suit property, therefore, the prayer for declaration cannot be granted. The defendant is the absolute owner of the property and the plaintiff never prevented the defendant at any point of time and the plaintiff has to strictly prove the alleged marriage between the said Srinivasan and the plaintiff. The suit is barred by limitation and the same is not maintainable and there is no cause of action for the suit and the suit is liable to be dismissed.

6. Based on the above said pleadings and after hearing both sides, the trial court has framed the following issues for trial:-

1. Whether the plaintiff is entitled for relief of declaration?
2. Whether the suit is barred by limitation?
3. To what other reliefs the plaintiff is entitled to?

Before the trial court, on the side of the plaintiff, witnesses, P.Ws.1 and 2 were examined and marked Exhibits A1 to A.4. On the side of the defendant, D.W.1 and D.W.2 were examined and Exhibits B.1 to B.3 were marked. The trial court after evaluating oral and documentary evidence submitted on both sides, decreed the suit. Aggrieved by the said decree and judgment, the



defendant has preferred the appeal before the First Appellate Court in A.S.No.58 of 2011 on the file of Sub Court, Ranipet on various grounds and the First Appellate Court has framed the following point for determination:-

“Whether the Judgment and decree dated 23.09.2010 made in O.S.No.72 of 2009 on the file of District Munsif, Ranipet is liable to set aside.”

After hearing both sides and perusing the records, the First Appellate Court has reversed the Judgment and dismissed the suit filed by the plaintiff. Aggrieved by the said Judgment and decree passed by the First appellate Court, the present Second Appeal has been preferred by the plaintiff on various grounds.

7. This Court at the time of admitting the appeal on 10.08.2015, formulated the following Substantial Questions of Law:-

“a. Whether the lower appellate Court is correct in law to reverse the judgment and decree passed by the trial court by holding that the Appellant / Plaintiff failed to produce the documents to establish that she was the wife of Srinivasan without appreciating the Exhibits A2, A3 and A4 in proper perspective?

b. Whether the lower appellate Court is correct in law to hold that in view of Sections 3,4 and 6 of the Tamilnadu Patta Passbook Act, it shall be presumed that the defendant is the owner of the land specified in Exhibit B1?



c. Whether the Lower Appellate Court is correct in law to hold that the case of the plaintiff for mere declaration without seeking consequential permanent injunction is not sustainable?”

8. The learned counsel appearing for the appellant would submit that originally the suit property belonged to Munusamy and the said Munusamy had four sons. The plaintiff is the daughter-in-law of the said Munusamy and she got married with the son of Munusamy, namely, Srinivasan and two children were born to them. Since the sons of the said Munusamy orally divided the properties among them, the suit property was allotted to the shares of Srinivasan. The plaintiff is working in SIPCOT and residing along with her children, taking advantage of the same, the defendant refused to give share of the plaintiff and also they attempted to encroach the property, thereby the plaintiff filed the suit. Before the trial court, on the side of the plaintiff, the plaintiff was examined as P.W.1 and another son of Munusamy, viz., Raji was examined as P.W.2 and marked Exhibits A.1 to A.4. The plaintiff side witness categorically deposed about the right of the plaintiff over the property and they proved the case and the trial court also after taking into consideration of the evidence adduced on both sides, correctly decreed the suit in favour of the plaintiff. However, the defendant preferred an appeal before the First Appellate Court and the First Appellate Court without appreciating the case in a proper perspective allowed the appeal and dismissed the suit.



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8 (i). Further, the learned counsel appearing for the appellant also contends that the First Appellate Court failed to consider that the plaintiff proved that she is the wife of the deceased Srinivasan and the property belonged to Munusamy and the said Munusamy had four sons and therefore, the plaintiff is entitled to the share of Srinivasan, who is son of Srinivasan. The respondent / defendant also admitted that the said Srinivasan born to the said Munusamy, however, according to the defendant, the said Srinivasan was lunatic and whereabouts were not known but the said contention was not proved by the defendant. Without considering the evidences of the plaintiff, the First Appellate Court erroneously allowed the appeal by dismissing the suit, therefore, the Second Appeal has to be allowed.

9. The learned counsel appearing for the respondent / defendant would submit that the property originally belonged to Munusamy and the said Munusamy had four sons. The property is under the possession and enjoyment of the defendant. The defendant is the grand son of Munusamy born through Annamalai and his paternal uncle, namely, Srinivasan was lunatic and his whereabouts were not known and he was not in a position to marry the plaintiff. The plaintiff is not the wife of the said Srinivasan and she has not produced any documents to prove the marriage between the plaintiff



and the said Srinivasan. Even according to the plaintiff, she was already married and children were born through that marriage. Therefore, it is the duty of the plaintiff to prove the second marriage between her and the said Srinivasan. There are no sufficient evidence adduced by the plaintiff to prove the alleged marriage between the plaintiff and the said Srinivasan. The plaintiff never enjoyed the property, since the said Srinivasan whereabouts were not known, the property was enjoyed by the father of the defendant and thereafter, he had been in possession and enjoyment of the property. Therefore, the plaintiff is not entitled to any reliefs. The trial court has erroneously decreed the suit without any basis, however, the First Appellate Court correctly allowed the appeal and dismissed the suit, on the ground that the plaintiff failed to prove her case and the suit for declaration without seeking consequential relief of permanent injunction is not maintainable. Moreover, patta has been granted in favour of the defendant. In view of Sections 3, 4, 6 of Tamil Nadu Patta Pass Book Act, it shall be presumed that the defendant is the owner of the property. Therefore, the First Appellate Court has correctly dismissed the suit and the present Second Appeal is liable to be dismissed.

10. Heard the learned counsel appearing on both sides and perused the documents placed on record.



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11. In this case, there is no dispute that the property belonged to one Munusamy and the said Munusamy had four sons. The plaintiff is claiming that that she is the wife of Srinivasan, who is one of the son of Late Munusamy and the four sons of Munusamy had partitioned their properties after demise of Munusamy, the suit schedule property was allotted to the husband of the plaintiff, Srinivasan. The plaintiff is residing outside the suit property and taking advantage of the same, the defendant refused to provide share to the plaintiff. The plaintiff, who filed the suit for declaration has to prove her case through sufficient evidence. The plaintiff has not produced any title deeds to show that the property was purchased by the plaintiff's father-in-law, namely, Munusamy. Though the defendant admitted that the suit property was purchased by his grand father, mere oral evidence is not sufficient to prove that the property was purchased by the said Munusamy. The plaintiff has only produced the petitions sent to the District Collector and xerox copy of the Bank Pass Book and copy of the order of PF Office and Postal Authorities, whereas, the defendant had produced the Patta issued in favour of the defendant's father and the tax receipts, settlement deed dated 01.10.2000 in favour of the defendant.



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12. It is to be noted that the plaintiff has filed the suit for declaration in respect of the property in S.F.No.185/1A to an extent of 1135 Sq.Ft., There are no records produced to show that this property was allotted to the husband of the plaintiff, namely, Srinivasan through partition between his brothers. The plaintiff claims that she is the wife of Srinivasan, but no sufficient evidence adduced by her. The defendant categorically denied the status of the plaintiff, as the wife of Srinivasan, while so, the plaintiff has to prove that she is the wife of Srinivasan and no where, she has stated about the marriage between her and the said Srinivasan, further there is no evidence that where the marriage took place and on which date, the marriage was solemnised between them. Even assuming that marriage was solemnised between them, there is no pleading about the said Srinivasan as to whether he is alive or not. Once the plaintiff claims the property through her husband, she has to prove that she married her husband namely, Srinivasan and he died. The plaintiff no where stated about that in the plaint. The plaintiff has not produced any documents to prove the title over the property and without any records, the trial court has granted decree in favour of the plaintiff. Even according to the plaint, sons of Munusamy had orally partitioned the property, if so, after partition, who enjoyed the property and how the plaintiff is entitled to the property, there are absolutely no records. Whereas, the defendant has produced the patta in the name of his father and



also produced settlement deed, therefore, the plaintiff has failed to prove that she is the wife of Srinivasan and the suit property was allotted to Srinivasan through partition.

13. It is well settled law that the plaintiff has to prove his case, through sufficient evidence in respect of relief of declaration and she cannot take advantage of the weakness of the defendant's case. The plaintiff failed to prove her case through sufficient evidence. However, the trial court decreed the suit without any evidence to prove the marriage between between the plaintiff and Srinivasan and the property belonged to Srinivasan. The First Appellate Court after analysing the evidences, correctly allowed the appeal and dismissed the suit that the plaintiff failed to prove that she is the wife of Srinivasan. Moreover, the plaintiff herself admitted that she already got married with her first husband. While so, it is her duty to prove that when the second marriage between the plaintiff and the said Srinivasan was solemnized, whether any divorce granted between the plaintiff and her first husband, absolutely, there is no evidence about the marriage between the plaintiff and the said Srinivasan. Further, the Appellate Court observed that the plaintiff vehemently contends that the defendant and his family members attempted to interfere with the possession and enjoyment of the property, while so, mere declaration itself is not sufficient and she ought to have sought



for consequential relief of permanent injunction. Therefore, dismissed the suit by allowing the appeal.

14. The above said observations of the First Appellate Court are based on available evidence and the plaintiff failed to prove her case and once the plaintiff pleaded that the property belonged to her husband and the relation itself is denied by the defendant, the plaintiff has to prove that she is the wife of Srinivasan and the property was allotted to the share of the said Srinivasan, but there is no evidence. Therefore, the First Appellate Court correctly dismissed the suit by allowing the Appeal.

15. As far as Substantial Question of Law (a). Whether the lower appellate Court is correct in law to reverse the judgment and decree passed by the trial court by holding that the Appellant / Plaintiff failed to produce the documents to establish that she was the wife of Srinivasan without appreciating the Exhibits A2, A3 and A4 in proper perspective' is concerned, the plaintiff has filed the suit for declaration declaring the title of the suit property in her favour and she produced exhibits A.1 to A.4, viz.,

Ex.A.1 – Petitions to District Collector, Vellore (4 Nos)

Ex.A.2 – Xerox copy of the Indian Bank Pass Book

Ex.A.3 – Order to the plaintiff from P.F.Office



Ex.A.4 – Order issued by the Postal Authority.

The said documents, viz., Exs.A.1 to A.4 are not sufficient to prove the marriage between Srinivasan and plaintiff. The trial court without evidence to prove the marriage between the plaintiff and the said Srinivasan and without any evidence to prove that the said property was allotted to the share of Srinivasan through partition, decreed the suit. The First Appellate Court after appreciating the evidence adduced on both sides correctly held that the marriage between the plaintiff and Srinivasan has not been proved and Exs.A.1 to A.4 are not sufficient to prove the marriage between the plaintiff and the said Srinivasan.

16. As far as the Substantial Question of Law (b). “ Whether the lower appellate court is correct in law to hold that in view of Sections 3, 4 and 6 of the Tamilnadu Patta Passbook Act, it shall be presumed that the defendant is the owner of the land specified in Exhibit B1?’ is concerned, the First Appellate Court held that as per Sections 3,4 and 6 of Tamilnadu Patta Pass Book Act, it shall be presumed that the defendant is the owner of the land specified in Ex.B.1 The Sections 4 and 6 of the Tamilnadu Patta Pass Book Act is extracted hereunder for ready reference:-

“4. *Presumption of correctness of entries in the patta, pass book.*— The entries in the patta pass book and the certified copy



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of entries in the patta pass book shall be presumed to be true and correct until the contrary is proved or a new entry is lawfully substituted therefor.

6. Entries in the patta pass book to be prima facie evidence of title:-

The entries in the patta pass book issued by the Tahsildar under section 3 shall be prima facie evidence of title of the person in whose name the patta pass book has been issued to the parcels of land entered in the patta pass book, free of any prior encumbrance, unless otherwise specified therein.

17. On a bare perusal of the above said provision, it is clear that patta has to be granted in favour of the owner of the land after due enquiry by the Tahsildar and the entries in the Patta Pass Book and the certified copy of entries in the Patta Pass Book shall be presumed to be true and correct until the contrary is proved or a new entry is lawfully substituted, therefore, all the entries shall be prima facie evidence of title. However, the High Courts in the catena of Judgments held that patta cannot be a basis for title and it is only a document for possession of the property, thereby mere entries made in Patta Pass Book alone are not a prima facie evidence of title of the person. This Court in N.Devendiran Vs. The District Collector, Thiruvallur & Others in W.P.No.21309 of 2024 dated 08.07.2025; Sakhivel Vs. Samivel Thevar (died) in A.S.(MD) No.638 of 2011 & C.M.P.Nos.2879 of 2020 & 6467 of 2022 dated



25.08.2022; Palaniammal Vs. K.M.Natarajan in S.A.(MD) No.1229 of 2005 dated 13.10.2019 and Kulandai Therasammal Vs. Maria Rathinam & Others in S.A.No.1358 of 1998 dated 31.10.2012 held that a patta is only considered evidence of title or claim, not conclusive proof of ownership, transfer of land via patta does not amount to a transfer of title and the holder of patta cannot claim full ownership rights over the property, possession from long term occupancy or usage does not automatically translate into ownership if a patta or other title deeds are not produced or are involved, the issuance of patta is viewed as an acknowledgement of possession or occupancy, not a transit of ownership, courts have consistently held that possession based on patta does not equal to ownership rights and the burden of proof lies on the claimant to establish title through proper documents and the courts have held that a patta alone cannot be deemed to be a conclusive proof of ownership. The absence of a title deed or registered document means the patta cannot be relied upon to establish clear title, especially when challenged by other evidences or claims. Further, this Court in **Valliammal Achi Vs. Velu Servai and Others** held that the patta is not a document of title. Mere absence of a patta in one's name cannot derogate from title of that person. Once the patta is granted, it is a prima facie proof for the possession of the property, merely patta was granted in favour of the defendant, in all cases, it cannot be said that patta holder is the owner of the property. Patta will not confer title, but no doubt it



is semblance of title. The patta can be a basis for the possession of the property and it cannot be a basis to prove the title of the property. It is well settled law that the patta cannot confer title over the property, therefore, the First Appellate Court after referring the provisions of the Tamilnadu Patta Pass Book Act without referring the Judgment of this Court had held that as per the provisions of the Patta Pass Book Act, it shall be presumed that the entries made by the Tahildar in the Patta Pass Book shall be prima facie of the title of the person in whose name the patta pass book has been issued to the parcels of the land, unless and otherwise specified therein.

18. Though as per Section 6 of the Tamilnadu Patta Passbook Act the entries in Patta Pass Book issued under Section 3 prima facie evidence of title referred above, as per Judgments of this Court, the patta alone cannot confer any title over the property and that is not a prima facie evidence for title of the property. Further, though the First Appellate Court observed above after referring to the Sections 3,4 and 6 of Tamilnadu Pass Book Act, suit has not been filed by the defendant for the relief of declaration of his title and the plaintiff only filed the suit for relief of declaration of her title and the plaintiff has to prove her case through sufficient evidence but she failed to prove her case. Therefore, mere observations made by the First Appellate Court in respect of



the patta issued in favour of the defendant shall no way affect the case of the plaintiff.

19. As far as the Substantial Question of Law (c) 'Whether the Lower Appellate Court is correct in law to hold that the case of the plaintiff for mere declaration without seeking consequential relief of permanent injunction is not sustainable' is concerned, the plaintiff has sought for relief of declaration of the property, the First Appellate Court rendered a finding that once the plaintiff pleaded that the defendant attempted to tress-pass into the suit property, she ought to have sought for relief of permanent injunction but she has not claimed for consequential relief of permanent injunction. As per proviso to Section 34 of Specific Relief Act, no court shall make any such declaration where the plaintiff being able to seek further relief, then, a mere declaration of title, omits to do so. In the case on hand, there are no specific pleadings that the plaintiff is in possession and enjoyment of the suit property, however, she pleaded that the defendant attempted to trespass into the property. Per contra, the defendant produced patta and revenue records to show that he is in possession and enjoyment of the property. While so, the plaintiff ought to have sought for the consequential relief. If the plaintiff is in possession, then she ought to have sought for the consequential relief of permanent injunction. If the plaintiff is out of possession, she ought to have sought for consequential



relief of recovery of possession. Since the plaintiff pleaded as about the attempting for tress-pass, she ought to have sought for consequential relief of permanent injunction. Once the plaintiff pleaded that the defendant and his men are attempting to tress-pass into the property, she ought have sought for relief of permanent injunction and court fees also paid under Section 25(b) of the Tamilnadu Court Fees and Suit valuation Act. After invoking the said Section 25(b), the plaintiff ought to have prayed for declaration and consequential relief of permanent injunction. Once the plaintiff paid court fee under Section 25(b) and pleaded that there is a threat for her possession, she ought to have sought for relief of declaration and consequential relief of permanent injunction, therefore, the First Appellate Court is correct in holding that the plaintiff after pleading about the attempts made by the defendant to tress pass in the property, she ought to have sought for relief of permanent injunction, therefore, the First Appellate Court is right by holding that the plaintiff has sought for mere declaration without seeking consequential relief of injunction is not sustainable, is correct.

20. In view of the above said discussions and answers to the Substantial Questions of Law, the Second Appeal has no merits and the same is liable to be dismissed.



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Accordingly, the Second Appeal is dismissed. No costs.

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

To

1. The Subordinate Judge,
Ranipet

2. The District Munsif,
Ranipet.



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ssd

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