



WEB COPY

SA No. 1214 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-02-2026

CORAM

THE HON'BLE DR.JUSTICE A.D.MARIA CLETE

SA No. 1214 of 2013 & M.P.No.1 of 2013

C.Thangaraj

Plaintiff/Appellant/
Appellant

Vs

1. Amudhavalli (died)

2. The Spl.Tahsildar(town)

Naththaam Scheme, Erode 638 001

3. D.K.Krishnaveni

4. K.Chitra

5. K.Sudha

6. K.Rajeswari @easwari

R1 died, rr3 to 6 are brought on record as lrs of

the deceased r1 vide court order dated

21/10/2024 made in cmp no.23523 of 2024 in

sa no 1214 of 2013(NSJ)

Defendants/Respondents
/Respondents

Prayer: Second Appeal filed under section 100 of CPC against the judgment and decree of the learned Principal Subordinate Judge, Erode, Erode District dated 16.04.2013 in A.S.No.98 of 2012 confirming the judgment and decree of the learned Principal District Munsif, Erode dated 03.12.2012 in un-numbered plaint in CFR No.15535 of 2012.



For Appellant(s): Mr..T.M.Hariharan

For Respondent(s): Mr. N.Manokaran

Judgment

Heard.

2. The second appeal filed by the Plaintiff arises from rejection, at the numbering stage, of an unnumbered plaint in C.F.R. No. 15535 of 2012 by the Principal District Munsif, Erode in order dated 03.12.2012, which rejection was affirmed in A.S. No. 98 of 2012 by the Principal Subordinate Judge, Erode in judgment dated 16.04.2013.

3. For the sake of convenience, the parties are referred to as arrayed before the trial court.

4. The appellant presented the plaint in C.F.R. No.15535 of 2012 on 29.11.2012 seeking a declaration that the plaintiff (C. Thangaraj) has a half right over the suit property on the strength of a patta dated 26.09.2012, and a consequential permanent injunction.



5. The trial court on perusal of the plaint and the prior judgments, formed the view that the filing was barred by res judicata and amounted to re-litigation since the earlier litigation in O.S NO 73 of 2000 regarding Door No.309 between the same parties on title/possession culminated in a decree against the present plaintiff (Thangaraj), and the High Court in S.A. No. 310 of 2004 confirmed the decree and directed him to vacate within six months; execution was pursued in E.P. No. 9 of 2004 and that a subsequent patta/revenue entry cannot prevail against and was characterised as having no evidentiary value; the court treated the plaint as a blatant abuse of process intended to create hurdles in execution. Invoking the principle that courts may nip in the bud vexatious litigation at the threshold citing ***T. Arivandandam v. T.V. Satyapal***, reported in ***AIR 1977 SC 2421*** and cautioning against judgment-debtor stratagems to deprive decree-holders of fruits of decrees citing ***Ravinder Kaur v. Ashok Kumar***, reported in **2003 (8) SCC 259** it rejected the petition/plaint as not maintainable as barred by res judicata and the principles against re-litigation.

6. The plaintiff carried the matter in appeal in A.S. No.98 of 2012. The First Appellate Court affirmed the Trial Court's approach and confirmed the rejection of the unnumbered plaint, resulting in the present Second Appeal.



7. In this Second Appeal, the appellant assails both courts as having proceeded contrary to law in rejecting the plaint at the threshold, and that the Courts below erred in treating the subject matter as identical to the earlier suit; that the bar of res judicata could not have been invoked without a full-fledged trial and opportunity; that the patta and subsequent events confer a distinct cause of action; and that the pre-numbering rejection is contrary to settled procedure.

8. The plaint was rejected at the pre-numbering stage and the proceeding never matured into a numbered suit; it was dismissed at the threshold as vexatious, relying on the Supreme Court decision in *T. Arivandandam*. Such an order, passed before numbering, does not attract Section 96 CPC nor fall within the appealable orders under Order XLIII CPC. The appropriate remedy would therefore be a revision under Section 115 CPC. In the present case, however, the appellant filed a first appeal, which was entertained and disposed of. If the first appeal itself was not maintainable, the order passed therein—and the consequential second appeal—would likewise be incompetent. When this issue was put to learned counsel for the appellant, he sought leave to place the matter at the Court's discretion, without advancing further submissions on that aspect.



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9. In that view, the second appeal is dismissed at the admission stage as not maintainable. There shall be no order as to costs. Consequently, the connected miscellaneous petition, if any, stands closed.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

1. Principal Subordinate Judge, Erode, Erode District
2. Principal District Munsif, Erode



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DR.A.D.MARIA CLETE J.

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