



WEB COPY

SA No. 244 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-04-2026

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THE HON'BLE MR.JUSTICE S. SOUNTHAR

**SA No. 244 of 2026 and
CMP.No.8188 of 2026**

K.M.Jeyaraman

..Appellant(s)

Vs

1. Chinnu alias Chinnasamy
2. Mangammal
3. Subramani
4. Gowrammal
5. Rani
6. Govindhan
7. Amsa
8. Rajadurai

..Respondent(s)

Prayer :Second appeal is filed under Section 100 of Code of Civil Procedure code, praying to set aside the judgment and decree dated 26.09.2025 made in A.S.No.46 of 2024 on the file of the Additional District Judge, Dharmapuri confirming the judgment and decree dated 16.08.2024 made in O.S.No.222 of 2018 on the file of the Subordinate Judge, Palacode.

For Appellant(s): N.Manoharan

JUDGMENT

The unsuccessful defendant is the appellant. The respondents herein filed a suit seeking recovery of possession. The suit was decreed by the trial court. The appeal filed by the appellant was also dismissed. Challenging the concurrent findings against him, he has come before this Court by way of second appeal.



2. According to the respondents/plaintiffs, the suit property originally belonged to his father Puttan. After his death, the first plaintiff and his brother Chandan are in joint possession of the suit property. The said Chandan is no more and his legal representatives were added as respondents 2 to 8. It is also stated by the plaintiffs that one Murugan, vendor of the appellant/defendant, attempted to interfere with the possession of the first plaintiff and his brother Chandan in the year 1995. Hence, the first plaintiff and his brother Chandan filed a suit in O.S. No. 435 of 1995 on the file of District Munsif Court, Palacode seeking declaration of their title and permanent injunction against him. The said suit was decreed on 26.02.2001. The unsuccessful defendant in the said suit namely Murugan filed first appeal in A.S.No.40 of 2001 on the file of Subordinate Court, Dharmapuri and the same was dismissed on 31.10.2011. Therefore, the findings rendered in the above mentioned suit had attained finality. Pending above mentioned suit, the above said Murugan sold the property in favour of present defendant Jeyaraman. In the earlier suit O.S.No.435 of 1995, the present defendant Jeyaraman was also examined as DW5. The suit was decreed by holding sale and revenue documents in the name of Jeyaraman were invalid and ultimately, the suit was decreed by declaring title of the plaintiffs and permanent injunction was also granted.

3. It is also pleaded by the plaintiffs that taking advantage of absence of first plaintiff and his brother Chandan in the locality, the defendant trespassed



into the suit property on 23.12.2010 and got orders for installation of electricity service connection in a Well in the suit property by relying on the sale deed in his favour, which was declared invalid in the earlier suit. Therefore, the plaintiffs were constrained to file a present suit seeking recovery of possession.

4. The appellant/defendant filed a written statement and denied the right of the plaintiffs over the suit property. It was his case that he purchased the suit property from above said Murugan under registered sale deed without the knowledge of the litigation and hence, he was the absolute owner of the suit property. It was also stated that even assuming plaintiffs proved their title over the suit property, the defendant has been in possession and enjoyment of the suit property from the date of sale i.e., 02.06.1995. Therefore, he perfected his title by way of adverse possession.

5. Before the trial court, sixth plaintiff was examined as PW1 and one Anbalagan was examined as PW2. On behalf of the plaintiffs, 11 documents were marked as Ex.A1 to Ex.A11. The defendant was examined as DW1 and yet another witness was examined as DW2. On behalf of the defendants, 16 documents were marked as Ex.B1 to Ex.B16. Four documents were also marked as Ex.X1 to Ex.X4 through DW2.

6. The trial court, on appreciation of evidence available on record, came to the conclusion that plaintiffs established their title and hence, they are entitled to recovery of possession. Aggrieved by the judgment and decree



passed by the trial court, the defendant filed first appeal in AS.No.46 of 2024 on the file of Additional District Court, Dharmapuri and the same was dismissed by confirming the findings of the trial court. Aggrieved by the concurrent findings, the appellant has come before this court.

7. The learned counsel for the appellant/defendant submitted that appellant/defendant purchased the suit property from Murugan on 02.06.1995 without having knowledge of the litigation and therefore, he is entitled to suit property. It is also stated that as per the sale deed executed in favour of appellant, the possession has been delivered on 02.06.1995 itself and he has been in possession of the suit property continuously for more than statutory period and therefore, he perfected his title by way of adverse possession.

8. It is seen from the findings of the court in the judgment passed in OS.No.435 of 1995, the unsuccessful defendant in the said suit namely Murugan sold the suit property to present defendant under Exhibit B2 on 02.06.1995. It is also pertinent to mention that present defendant was also examined as DW5 in the said suit. The above said suit was decreed in favour of present first plaintiff and his brother declaring their title over the suit property and decree for permanent injunction was also granted in their favour confirming their possession over the suit property.

9. It is seen that the present defendant purchased the suit property from Murugan pending O.S.No.435 of 1995. Therefore, his purchase is hit by



doctrine of *lis pendens*. When the above mentioned suit was decreed declaring the title of the first plaintiff and his brother Chandan and also a decree for permanent injunction has been granted, it is not open to the present defendant to contend that he has been in possession and enjoyment of the suit property; From 26.02.2001 onwards, the decree for permanent injunction is operating against him. He cannot plead anything against the findings of the court which attained finality. It is also necessary to mention that the above mentioned Murugan, the vendor of the present defendant, filed appeal in A.S.No.40 of 2001 on the file of Sub-Ordinate Court, Dharmapuri and the said appeal was dismissed on 31.10.2011 confirming the findings of the trial court. Therefore, the findings rendered in the earlier proceedings upholding the title and possession of present first plaintiff and his brother, had attained finality on 31.10.2011. In such circumstances, till 31.10.2011, the defendant is not entitled to claim any adverse possession. There is no plea in the written statement as to when the possession of the defendant had become adverse against the present plaintiff after disposal of A.S.No.40 of 2001. Even assuming the possession of the defendant had become adverse after disposal of A.S.No.40 of 2001, the present suit has been filed in the year 2018 is well within the statutory period (A.S.No.40 of 2001 disposed on 31.10.2011). Therefore, the defendant miserably failed to prove before the courts below, when his possession had become hostile to the rights of the original owner and his hostile possession continued for more than statutory period. Both the courts below, on appreciation of evidence available on record,



came to the conclusion that appellant/defendant failed to establish the plea of adverse possession. I do not find any perversity in the findings of the courts below. Accordingly, the second appeal is dismissed as de-void of any substantial question of law. Consequently, the connected miscellaneous petition is closed. No costs.

02-04-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

1. The Additional District Judge, Dharmapuri
-]
2. The Subordinate Judge, Palacode.



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S.SOUNTHAR, J.

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