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SA No. 844 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-02-2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

SA No. 844 of 2015

Veeramuthu S/o. Marudha Muthu,
Kollaiyanur Village, Udayarpalayam Post,
Ariyalur Dist.

..Appellant(s)

Vs

1.Palaniamy S/o. Renganathan,
2.Jeyaraman S/o. Renganathan
3.Arivazhagi W/o. Palanisamy.
4.Shenbagavalli W/o. Kalaiyamurthy.

All are residing at:
Kollaiyanur, Udayarpalayam Post, Ariyalur Dist.

..Respondent(s)

PRAYER: The Second Appeal has been filed under 100 of Code of Civil Procedure as against the judgment and decree dated 16.02.2015 made in A.S. No.48 of 2014 on the file of the Principal District Judge, Ariyalur reversing the judgment and decree dated 28.01.2013 made in O.S. No.315 of 2010 on the file of the District Munsif, Ariyalur.

For Appellant(s): M/s.K.A.Vimal Kumar

For Respondent(s): M/s.usha Ramman



JUDGMENT

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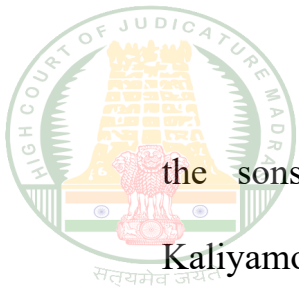
The Second Appeal has been preferred as against the decree and judgment passed by the Principal District Judge, Ariyalur in A.S. No.48 of 2014 dated 16.02.2015, wherein the appellant herein, being the Plaintiff, has filed a Suit for the relief of declaration and permanent injunction as against the defendants / respondents herein. The trial Court decreed the Suit in O.S. No.315 of 2010 on the file of District Munsif, Jayamkondam. Aggrieved by the said decree and judgment, the defendants have preferred an appeal in A.S. No.48 of 2014 on the file of the Principal District Judge, Ariyalur and the First Appellate Court modified the decree by partly allowing the appeal. Aggrieved by the said decree and judgment, the Plaintiff has preferred this second appeal.

2. The *case of the Plaintiff before the trial Court* is that the Suit property was purchased by the father of the Plaintiff namely Marudha Muthu through a Sale Deed dated 05.06.1930 from one Azhagammal, wife of Mr. Duraisamy. After the demise of his father, the Plaintiff is in the possession and enjoyment of the property. The defendants are no way connected to the Suit property. The Plaintiff has no male issues. Taking advantage of the same, the defendants are attempting to grab the property of the Plaintiff. The Plaintiff and his father have been under the enjoyment of the property by growing trees and cultivating. There is a live fence all over the boundaries of the property. For



the said property, Patta No.1103 has been issued and the Plaintiff is also paying kist to the suit property. While so, the defendants attempted to interfere with the possession and enjoying of the property and tried to remove the trees. Therefore, filed the Suit.

3. The *case of the defendants before the trial Court* is that the entire property does not belong to the Plaintiff and the same is not under the exclusive possession and enjoyment of the Plaintiff. The vendor of the Plaintiff's father namely Azhagammal, wife of Mr. Duraisamy Padayachi had no right to dispose the entire extent of the Suit property. Therefore, the Sale Deed dated 05.06.1930 is not a genuine document and is not valid in the eye of law. The father of the plaintiff namely Marudha Muthu had another son namely Manickam and later he died. The said Late Manickam had a son namely Kaliyaperumal and five daughters. Suppressing the same, the present Suit has been filed. In fact, the Suit property is originally belonged to Duraisamy Padayachi, Thandavaraya Padayachi and Krishna Padayachi. The said Duraisamy Padayachi had one son namely Sivasamy. Mr. Thandavaraya Padayachi had a son namely Natesa Padayachi. Thereby, the property was enjoyed by Sivasamy Padayachi, Natesa Padayachi and Krishna Padayachi and a joint Patta No.149 was issued in the name of above three persons. The mother of Sivasamy is the said Azhagammal, wife of Duraisamy Padayachi, who sold the Suit property to the father of the Plaintiff. The defendants 1 and 2 are the sons of Ranganathan, who is one of



the sons of Natesa Padayachi and the 4th defendant is the wife of Kaliyamoorthy, who is another son of Natesa Padayachi. The 4th defendant has one daughter. Krishna Padayachi died without any issues. The said Natesa Padayachi also died. Therefore, the property belongs to Krishna Padayachi was enjoyed by the legal heirs of Natesa Padayachi. The property to an extent of 16 cents belongs to Natesan Padayachi was also enjoyed by his legal heirs 1, 2 and 4 defendants. Therefore, the defendants 1,2 and 4 are entitled to 32 cents and they partitioned all the above said 32 cents between them through oral partition. As per the oral partition, the western side 16 cents, was allotted to the defendants 1 and 2, and they sold the said property to the 3rd defendant through a Sale deed dated 16.02.2009 and another extent of 16 cents belonged to the 4th defendant. Joint patta also stands in the name of 1,2 and 4 defendants, thereby the Plaintiff and his brother are jointly entitled to 16 cents. The Patta No.1103 is also a joint patta. Hence the Suit filed by the Plaintiff is not maintainable and the same is liable to be dismissed.

4. Based on the above said pleadings and after hearing both sides, the trial Court has framed the following **issues**:

a. Whether the Suit property belongs to the Plaintiff?

b. Whether the Plaintiff is entitled to the relief of declaration and consequential relief of permanent injunction?



c. To what other reliefs, the Plaintiff is entitled to?

5. Before the trial Court, on the side of the Plaintiff, PW1 and PW2 were examined and Ex.A.1 to Ex.A.8 were marked. On the side of the defendants, DW1 to DW4 were examined and Ex.B.1 to Ex.B.12 documents were marked. Further, Ex.C.1 was also marked. ***The trial Court***, after evaluating the oral and documentary evidences adduced on both sides, ***decreed the Suit through a decree and judgment dated 28.01.2013***. Aggrieved by the said decree and judgment, the defendants have preferred an appeal Suit in A.S. No.48 of 2014 on the file of the Principal District Judge, Ariyalur on various grounds.

6. The First Appellate Court framed the following ***points for determination***:

(i) Whether the Plaintiff is entitled to the Suit property?

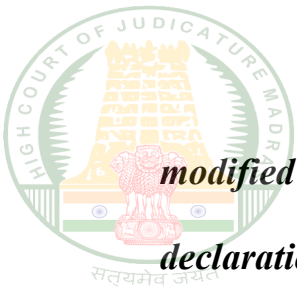
(ii) Whether the Plaintiff is entitled to declaration and injunction as prayed for?

(iii) Whether the Lower Court judgment and decree are correct?

(iv) Whether the appeal is liable to be allowed?

(v) To what relief?

7. After hearing both sides and perusing the records including the judgment and decree passed by the trial Court, ***the First Appellate Court***



modified the decree and judgment passed by the trial Court and granted declaration in respect of 16 cents only on the eastern side of the Suit property and in respect of other aspects, the decree and judgment of the trial Court were set aside. Aggrieved by the said decree and judgment, the present second appeal has been preferred by the Plaintiff.

8. At the time admitting the second appeal, this Court has formulated the following *substantial questions of law*:

a. When the respondents / defendants themselves admitted that appellant / Plaintiff predecessor-in-interest and respondents / defendants predecessor-in-interest were not brothers, whether the judgment and decree of the lower appellate Court, which entirely proceed on the footing that appellant / plaintiff predecessor-in-interest and respondents / defendants predecessor-in-interest were brothers and entitled to Suit property is right in law?

b. When the respondents / defendants admitted that the appellant / plaintiff are only entitled to 16 cents over the suit property by virtue of Ex.A.1 Sale Deed, whether onus is not casted upon the respondents / defendants to establish that how they nurture title over the Suit property to substantiate their claim?

c. In reversing the decree of the Suit, whether the Lower Appellate Court in law is only relying upon the evidence of Plaintiff without considering



the oral and documentary evidence of defendants especially when the lower appellate Court is the final Court of fact?

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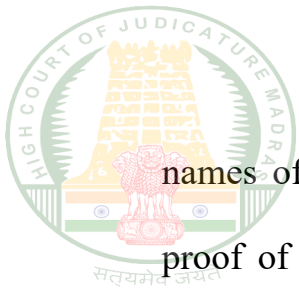
9. For the sake of convenience and brevity, 'the parties' hereinafter will be referred to as per their status / ranking in the Trial Court.

10. The learned counsel appearing for the appellant would submit that the father of the appellant namely Marudha Muthu purchased the Suit property in S.F. No.85/9 to an extent of 48 cents from one Azhagammal, Wife of Mr. Duraisamy Padayachi through a Sale Deed dated 05.06.1930. On and from the date of Sale Deed itself, the Plaintiff's father was in possession and enjoyment of the property. After the demise of his father, the Plaintiff is in possession and enjoyment of the property. The Plaintiff has no male issues and thereby, to grab the Suit property, the defendants are attempting to interfere with the Plaintiff's possession and enjoyment in the property and also they are claiming some novel right over the Suit property. Therefore, the Plaintiff filed the Suit. The Plaintiff has examined PW1 and PW2 and marked Ex.A.1 to Ex.A.8. The defendants have examined DW1 to DW4 and marked Ex.D.1 to Ex.D.12. The Plaintiff has produced the original Sale Deed in the name of the Plaintiff's father dated 05.06.1930, which is a very old document, thereby the Plaintiff is entitled to the benefit of Section 90 of Indian Evidence Act in respect of Ex.A.7, original Sale Deed dated 05.06.1930. Further Ex.A.2, patta was also issued in the name of the Plaintiff's father and the Plaintiff's father had also paid kist to the property

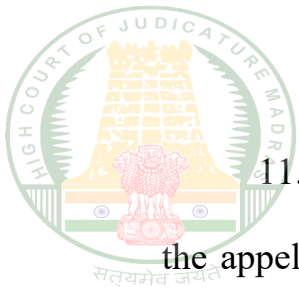


and the Plaintiff is in the possession and enjoyment of the property. Further the defendants are attempting to interfere with the property by claiming some rights over the property and thereby, filed the Suit. The Plaintiff side witnesses and documents establish the title of the property and the defendants' side witnesses are not in a position to speak about the enjoyment of the property by the defendants, thereby, the trial Court, after an elaborate discussion, appreciated the facts in a proper and perspective manner and decreed the Suit. However, the First Appellate Court, by merely relying upon the joint patta, set aside the decree and only granted decree in respect of 16 cents of the suit property.

10.1. In fact, the First Appellate Court failed to consider that the patta is not a document for the title and the defendants failed to establish that they are entitled to 32 cents. There are no records to show that the husband of the vendor of the Plaintiff's father namely Duraisamy Padayachi, Thandavaraya Padayachi and Krishna Padayachi were brothers and they were each entitled to 16 cents of the property. The First Appellate Court failed to consider that Ex.A.7 and Ex.A.1 were executed as early as on 05.06.1930 and the same has presumption under Section 90 of Indian Evidence Act. The First Appellate Court failed to consider that Ex.B.4 joint Patta was issued in the year 2003, which is subsequent to the patta, Ex.A.2, issued in favour of the appellant / Plaintiff. Without serving any notice to the appellant / Plaintiff, the joint patta, Ex.B.4, was issued in the year 2003 and the same is not valid. Mere mutation of



names of the respondents / defendants in the Patta itself, does not become a proof of title. The Plaintiff has proved his possession and enjoyment of the property, but the First Appellate Court failed to consider the said aspect. The First Appellate Court completely overlooked the vital admission made by the defendants in their oral evidence. The Lower Appellate Court failed to consider Ex.A.8, where Krishna Padayachi sold his property to the third parties and he has only right over the property in S.F. No.85/14 and the First Appellate Court has not given specific reasons in setting aside the judgment of the trial Court. Further, Ex.A.8 also revealed the name of the father of the Plaintiff i.e., Marudha Muthu at one of the boundaries to the property in S.F. No.85/14. Therefore, the said Krishna Padayachi himself admitted the purchase of the property and they have knowledge about the purchase of the property by the Plaintiff's father and without challenging the above said Sale Deed, the defendants are now claiming right over the property. When the defendants themselves admitted the Plaintiff's predecessor-in-title and the First Appellate Court admitted the share of the Plaintiff to an extent of 16 cents, without casting upon the onus on the defendants to establish that how they acquire the property, set aside the decree and judgment. Therefore, the judgment and decree passed by the First Appellate Court are not in accordance with law and the same are liable to be set aside by allowing the second appeal.



11. The learned counsel appearing for the respondents would submit that the appellant / Plaintiff has filed a Suit before the trial Court for the reliefs of declaration and permanent injunction in respect of the Suit property. In fact, the Suit property originally belonged to Duraisamy Padayachi, Thandavaraya Padayachi and Krishna Padayachi. The total extent of the property is 48 cents and they are equally entitled to 16 cents each. The Plaintiff is the grand son of Duraisamy Padayachi. 1,2 and 4 defendants are the legal heirs of Thandavaraya Padayachi. The Krishna Padayachi died without issues. The wife of Duraisamy Padayachi, namely Azhagammal sold the property to the Plaintiff's father through a Sale Deed dated 05.06.1930 in respect of the entire property belonged to Duraisamy Padayachi, Thandavaraya Padayachi and Krishna Padayachi. The vendor of the Plaintiff's father namely Azhagammal had only right over the 16 cents of the property and she has no right to execute Sale Deed to the entire extent of the property. Therefore, the sale deed in the name of the Plaintiff's father is not valid in the eye of law. The share of the Thandavaraya Padayachi and Krishna Padayachi are under the possession and enjoyment of 1,2 and 4 defendants. The defendants 1,2 and 4 have orally partitioned the property 20 years back and out of the 32 cents, the share of 16 cents on the western side was allotted to the 4th defendant and eastern side was allotted to the defendants 1 and 2 and later, the 1 and 2 defendants they sold the said property to the 3rd defendant and the western side of the property is under the possession and enjoyment of the 4th defendant. Therefore, the Plaintiff is not entitled to the entire extent of the Suit property and



he is only entitled to 16 cents. Joint patta was also issued in the name of the Plaintiff and the defendants. The trial Court erroneously decreed the Suit.

However, the First Appellate Court after analysing the evidences, correctly came to a conclusion that the entire Suit property does not belong to the Plaintiff and the Plaintiff is only entitled to a decree for 16 cents. Therefore, the second appeal is liable to be dismissed.

12. This Court heard both sides and perused the entire materials available on record.

13. According to the Plaintiff, his father Marudha Muthu purchased the Suit property through a Sale Deed dated 05.06.1930. The Original Sale Deed dated 05.06.1930 has been marked as Ex.A.7 and the certificate copy of the said document has been marked as Ex.A.1. The defendants have denied the execution of the said document. Since the said document is more than 30 years old document and it was produced from proper custody, it has a presumption under Section 90 of Indian Evidence Act in respect of the execution of the document. Though the defendants have denied the said document, it is a registered document and as per Section 3 of Transfer of Property Act, once the document is registered, it is considered to have a constructive notice to the public and the defendants 1 and 2 have also sold their share of property to the 3rd defendant through a Sale Deed dated 16.02.2009, which is subsequent to the



Sale Deed in the name of the Plaintiff's father i.e., 05.06.1930. While so, the 3rd defendant, at the time of purchase of property from the defendants 1 and 2, should have knowledge about the earlier sale deed in the name of the Plaintiff's father, while enquiring about the encumbrance over the property. But in spite of Sale Deed registered in the name of the Plaintiff's father, the 1 and 2 defendants have sold the property to the 3rd defendant. On the date of Sale Deed dated 16.02.2009, the entire property was in the name of the father of the Plaintiff, thereby the defendants 1 to 3 could not have executed the Sale Deed in respect of the Suit property. Once the property was sold to the Plaintiff's father, without challenging the said Sale Deed, the defendants cannot question the title of the property after a considerable period of more than 80 years.

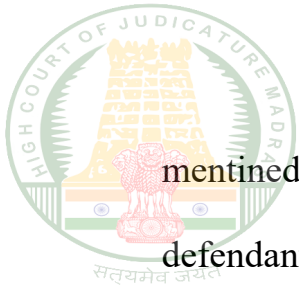
14. According to the defendants, originally the property jointly belonged to Duraisamy Padayachi, Thandavaraya Padayachi and Krishna Padayachi. The said Krishna Padayachi died issueless. Duraisamy Padayachi had one son namely Sivasamy Padayachi. The vendor of the Plaintiff's father is none other than the wife of Duraisamy Padayachi. She sold the property for herself and on behalf of her minor son namely Sivasamy Padayachi in favour of the father of the Plaintiff namely Marudha Muthu on 05.06.1930 to an extent of 48 cents. The defendants 1,2 and 4 are the legal heirs of the deceased Thandavaraya Padayachi. The said Thandavaraya Padayachi had a son namely Natesa Padayachi and the said Natesa Padayachi had two sons namely Ranganathan



and Kaliyamoorthy. The 1 and 2 defendants are the sons of Ranganathan and the 4th defendant is the wife of Kaliyamoorthy. There are no records to show that

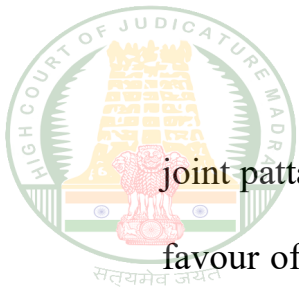
the said Duraisamy Padayachi, Thandavaraya Padayachi and Krishna Padayachi are brothers and they are jointly entitled to the Suit property. The Plaintiff has also denied the said relationship between Duraisamy Padayachi, Thandavaraya Padayachi and Krishna Padayachi. While so, it is the duty of the defendants to prove that the said Duraisamy, Thandavaraya and Krishan Padayachi are brothers and they are jointly entitled to the Suit property. Since the Plaintiff filed the Suit for declaration, it is his duty to establish his title through sufficient evidence and he cannot take advantage of weakness of the defendants' case.

15. The Plaintiff examined PW1 and PW2 and marked Ex.A.1 to Ex.A.8. The Ex.A1 and Ex.A7 are the Sale Deeds in the name of Plaintiff's father and the same is 30 years old and he has also produced Ex.A.2 patta, Ex.A.3 Kist receipts, Ex.A.4, Encumbrance Certificate, chitta Ex.A5 and Ex.A6 and moreover, Krishna Padayachi has sold his property to third parties through a Sale Deed dated 28.08.1936, Ex.A.8, after execution of Sale deed in favour of Plaintiff's father on 05.06.1930. In the said Ex.A.8, Krishna Padayachi had sold the properties including S.F. No.85/14 in favour of Natesa Padayachi, who is the father of 1 and 2 defendants and father-in-law of the 4th defendant. In that document, the name of father of the Natesa Padayachi has been mentioned as 'Sengamuthu Padayachi'. The father name of the Krishna Padayachi has been



mentioned as 'Chinnasamy Padayachi'. Therefore, the contention of the defendants that the Duraisamy Padayachi, Thandavaraya Padayachi and Krishna Padayachi are brothers and they are equally entitled to the Suit property is not acceptable. Moreover, in the said document, while mentioning the four boundaries in S.F. No.85/14, the Suit property has been mentioned as one of the four boundaries i.e., “மருத முத்து நிலத்திற்கு மேற்கு.....” i.e., west of land of Marudha Muthu. Therefore, the father of the defendants himself was having knowledge about the Sale Deed executed in favour of the father of the Plaintiff Marudha Muthu, but they have not challenged the said Sale Deed immediately after their knowledge and therefore, the contention of the defendants that the property jointly belongs to the Plaintiff and the defendants and Krishna Padayachi is not acceptable.

16. It is true that the joint patta No.1334 has been issued in the name of the Plaintiff and the defendants in respect of the property in S.F. No.85/14C to an extent of 0.5 hectares and another joint patta No.1103 for the property in S.F. No.85/9 to an extent of 19.5 hectares was also issued. The said joint patta was issued in the name of Veera Muthu and sons of Ranganathan namely Palanisamy and Jayaraman, who are the defendants 1 and 2 herein. Thereafter, a separate patta has been issued in the name of the Plaintiff through Ex.A.8. Merely including the names in the joint patta itself is not sufficient to hold that



joint pattadar was also having rights over the property, when the Sale Deed is in favour of the father of the Plaintiff for the entire extent of the property. Further the defendants' father had also purchased the properties from Krishna Padayachi, where the existence of property in the name of Plaintiff's father has been admitted by mentioning the name of the Plaintiff's father in one of the four boundaries and now the defendants cannot deny the title of the Plaintiff. Further, the documents filed by the defendants viz., Ex.B.7 to Ex.B.9 revealed that one of the boundaries has been mentioned as 'Veera Muthu' and those documents are subsequent to the documents of the Plaintiff's documents. The defendants failed to examine the vendor of those Sale Deeds, to prove the purchase of the said properties. The defendant side witness DW1, in his cross examination, was not even in a position to say about the wife of Duraisamy Padayachi, namely Azhagammal. DW2 also in his cross examination, was not in a position to say about the properties allotted between Duraisamy and Ramasamy. DW3 was also not in a position to speak about Azhagammal, wife of Duraisamy and about Ramasamy. He has stated that he does not know about the purchase of the Suit property by the father of the Plaintiff and DW4 was also not in a position to speak about Duraisamy and Ramasamy. While so, the defendants side witnesses were not in a position to speak about the relationship between the Plaintiff's predecessor and the defendants' predecessor. Therefore, the Plaintiff has proved his case and merely because inclusion of names in the patta as joint pattadars, it is not sufficient to claim right over the properties,



when the property was purchased through Sale Deed by the father of the Plaintiff for entire extent of 48 cents.

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17. In this case, the trial Court has elaborately discussed about the evidences adduced on both sides and fairly came to a conclusion that the Plaintiff has proved his case and the defendants have failed to prove the relationship between the Plaintiff's predecessor and the defendants' predecessor, thereby decreed the Suit. However, the First Appellate Court has merely placed reliance on the joint patta and modified the decree and judgment and decreed the Suit only in respect of 16 cents. The First Appellate Court has not given any reasons as to how the defendants are entitled to 32 cents. When the relationship between the Duraisamy Padayachi, Thandavaraya Padayachi and Krishna Padayachi were not proved, without any documents, the First Appellate Court came to a conclusion that they are brothers and each brother is entitled to 16 cents and ignored the registered Sale Deed dated 05.06.1930 to an extent of 48 cents. Therefore, the judgment of the trial Court is in order and based on the evidences, but the judgment of the First Appellate Court is without any documents and the same is unsustainable. As per Ex.B.4, Patta was issued in favour of the Plaintiff and the defendants 1 and 2 and even according to Ex.B.4, the name of the Plaintiff has been mentioned. Once the entire extent of property was purchased by the father of the Plaintiff, how the names of the defendants have been included, has to be explained. Moreover, as per Ex.B.4,



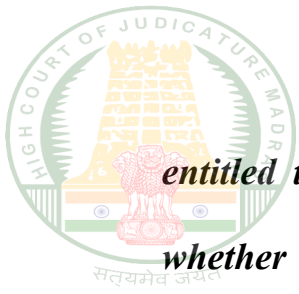
the names of the defendants have been mentioned as ‘minors’. On the date of purchase, the property was purchased in the name of the Plaintiff’s father and after the demise of the father of the Plaintiff, the Plaintiff’s name would be included. While so, on the date of Ex.B.4, the names of the defendants have been mentioned as ‘minors’. Even according to the defendants 1 and 2, they sold the property in the year 2009 to the 3rd defendant, but the documents have not been produced in the name of the 3rd defendant as about the name transfer in the revenue records. Therefore, based on the patta, the Court cannot decide the title of the parties, when the Sale Deed is in favour of the Plaintiff’s father. Therefore the Plaintiff has proved his case through sufficient evidences in the manner known to law. Therefore, the First Appellate Court, without considering the evidences, in a proper and perspective manner and without any reasons interfered with the judgment of the trial Court and the same is not sustainable.

18. As far as the *substantial questions of law that a) When the respondents / defendants themselves admitted that appellant / Plaintiff predecessor-in-interest and respondents / defendants predecessor-in-interest were not brothers, whether the judgment and decree of the lower appellate Court, which entirely proceed on the footing that appellant / plaintiff predecessor-in-interest and respondents / defendants predecessor-in-interest were brothers and entitled to Suit property is right in law?* is concerned,



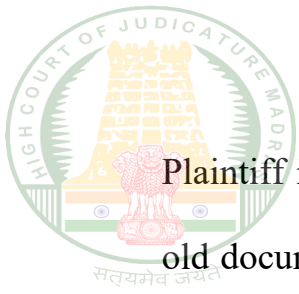
according to the Plaintiff, his father purchased the Suit property from one Azhagammal, wife of Duraisamy Padayachi through a Sale Deed dated 05.06.1930. According to the defendants, the said property belonged to Duraisamy Padayachi, Thandavaraya Padayachi and Krishna Padayachi, who are the brothers. This Court, in the previous para, decided that the defendants failed to prove that the above said Duraisamy Padayachi, Thandavaraya Padayachi and Krishna Padayachi are brothers. Per contra, Ex.B.8 reveals the father name of the Natesa Padayachi as Sengamuthu Padayachi and the father name of the Krishna Padayachi as Chinnaasamy Padayachi. While so, the defendants failed to prove that the said Duraisamy Padayachi, Thandavaraya Padayachi and Krishna Padayachi are brothers. Further no any document was produced by the defendants to show that the Suit property belongs to Duraisamy Padayachi, Thandavaraya Padayachi and Krishna Padayachi. Since the defendants failed to prove that the predecessor of the Plaintiff and the predecessor of the defendants were brothers, the judgment of the Lower Appellate Court was entirely proceeding on the footing that appellant / plaintiff predecessor-in-interest and respondents / defendants predecessor-in-interest were brothers and entitled to Suit property is not right in law. Thus, the *1st substantial question of law is answered.*

19. As far as the *2nd substantial question of law that “When the respondents / defendants admitted that the appellant / plaintiff are only*



entitled to 16 cents over the suit property by virtue of Ex.A.1 Sale Deed, whether onus is not casted upon the respondents / defendants to establish that how they nurture title over the Suit property to substantiate their claim”

is concerned, the Plaintiff has filed the Suit for declaration in respect of property in S.F. No.85/9 to an extent of 48 cents. The First Appellate Court, without any evidence and ignoring the Sale Deeds marked as Ex.A.1 and Ex.A.7, came to a conclusion that the Plaintiff is entitled only to 16 cents. When the Sale Deed executed in favour of the father of the Plaintiff, itself is for an extent of 48 cents, without any evidence and documents that the defendants are entitled to remaining 32 cents, declined to grant decree for the remaining extent of the property contained in Ex.A.1 and Ex.A.7, Sale Deeds. In the absence of proof for the defendants plea that the property is related between the Plaintiff's predecessors and the Predecessor of the defendants and they are jointly entitled to the property, it is unsafe to hold that the defendants are entitled to the Suit property. Even assuming that the Duraisamy Padayachi, Thandavaraya Padayachi and Krishna Padayachi are equally entitled to 16 cents, there is no reference about the property of Krishna Padayachi and according to the defendants, the said Krishna Padayachi died issueless. While so, his brothers Duraisamy Padayachi and Thandavaraya Padayachi are equally entitled to the property. But the defendants alone are claiming that they are entitled to the property of Krishna Padayachi. Therefore, without any document and cogent evidences, the First Appellate Court came to a wrong conclusion that the



Plaintiff is entitled to only 16 cents ignoring the Sale Deed, Ex.A7 which is an old document and has statutory presumption. Thereby, the findings of the First Appellate Court is erroneous and the same is liable to be set aside.. Thus, the **2nd substantial question of law is answered.**

20. As far as the 3rd **substantial questions of law that “ In reversing the decree of the Suit, whether the Lower Appellate Court in law in only relying upon the evidence of Plaintiff without considering the oral and documentary evidence of defendants especially when the lower appellate Court is the final Court of fact?”** is concerned, the First Appellate Court has failed to consider the evidence adduced on both sides and not even discussed about the evidences and admissions made by the defendants in respect of the relationship between the parties and enjoyment of the property and thereby, the Lower Appellate Court failed to appreciate the facts in a proper and perspective manner. The 1st appellate court being the final court of fact finding ought to have analyzed the evidences adduced on both sides and formed opinion, but not even discussed about the defendant side evidences and only relied upon the plaintiff side evidences. Therefore, the findings of the First Appellate Court are not in accordance with law and the same are liable to be set aside. Thus, the 3rd **substantial question of law is answered.**

21. In view of the above said discussions and answers to the substantial



questions of law, this Court is of the opinion that the *judgment and decree passed by the First Appellate Court are unsustainable and they are liable to be set aside.*

22. Accordingly, the Second Appeal is allowed.

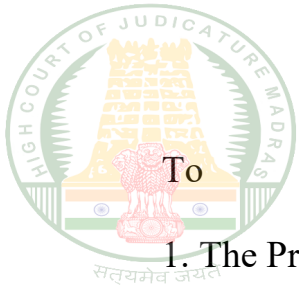
(a) The judgment and decree dated 16.02.2015 made in A.S. No.48 of 2014 on the file of the Principal District Judge, Ariyalur modifying the judgment and decree dated 28.01.2013 made in O.S. No.315 of 2010 on the file of the District Munsif, Jayamkondam, are set aside; and

(b) The judgment and decree passed by the District Munsif Court, Jayamkondam in O.S. No.315 of 2010 dated 28.01.2013 are restored. There shall be no order as to costs.

24-02-2026

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

MJS



SA No. 844 of 2



To

1. The Principal District Judge, Ariyalur.

2. The District Munsif, Jayamkondam.

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P.DHANABAL, J.

MJS

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