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S.A.No.904 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 27.02.2026

Pronounced on: 30.03.2026

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

S.A.No.904 of 2015
and
C.M.P. No.499 of 2026

K.Jothilakshmi

... Appellant

VS

1. Rajara, Reddiar
2. Vijaya
3. Janakiraman
4. Balasubramaniam
5. Chitra
6. Indira

.... Respondents

Prayer: Second Appeal filed under Section 100 CPC, 1908 to set aside the decree and judgment dated 24.09.2014 passed in AS No.17 of 2013 by the learned Sub Ordinate Judge at Madurantakkam by confirming the decree and judgment dated 29.07.2013 passed in OS No.98 of 2010 by the learned District Munsif, Madurantakkam and allow the suit in O.S.No.98 of 2010 according to to law by allowing the second appeal.

For Appellants : Mr.N. Nagu sah

For Respondent : Mr.D.Murthy



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JUDGMENT

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This Second Appeal has been preferred as against the decree and judgment passed by the learned District Munsif, Madurantakkam in O.S.No.98 of 2010 dated 29.07.2013.

2. The appellant is the plaintiff who filed the suit in O.S. No.98 of 2010 on the file of the District Munsif Court, Maduranthakam to declare the title of the plaintiff and for consequential relief of permanent injunction and to declare the settlement deed executed in respect of the suit property as null and void. The trial Court dismissed the suit and the plaintiff filed an appeal in A.S. No.79 of 2013 on the file of the Sub Court, Maduranthakam and the appellate Court also dismissed the appeal by confirming the decree and judgment passed by the trial Court. Aggrieved by the said decree and judgment the plaintiff has preferred this second appeal.

3. The brief facts of the averments made in the plaint are as follows:

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The plaintiff is the absolute and exclusive owner of the suit property and she purchased the property by way of registered sale deed dated 19.04.1998 from Balakrishna Reddiyar, Kuppammal and Ramabai. On and from the date of sale itself she has been in possession and enjoyment of the suit property. The vendor Balakrishna Reddiyar executed a registered settlement deed dated 11.05.1982 to Kuppammal and Ramabai, therefore the plaintiff purchased the properties from the said Balakrishnan, Kuppammal and Ramabai. The mother of vendor Balakrishna reddyar got the property by way of oral partition reduced into by way of coor chit. Through the said partition, E schedule was allotted to Balammal in which the first defendant father was an attesor. Later there was a partition between the first defendant and his brothers through partition deed dated 25.10.1984. In the said partition deed the S.No.75/1 was mentioned as western boundary of Narayanasamy who belongs to plaintiff's vagaira, therefore the defendants estopped from questioning the right of the title of the plaintiff. Thereafter when the plaintiff applied for Encumbrance Certificate on 04.01.2010 it was seen that the settlement deed dated 27.05.2009 in favour of the second defendant by the first defendant and settlement in favour of the

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defendants 3 to 4 by the second respondent were created and also sale deeds were created by the second defendant in favour of the defendants 5 and 6 and the said documents are void documents. The first defendant also got patta and the plaintiff is taking steps to get patta in her name. By creation of the above said documents the defendants are attempting to interfere with the plaintiffs possession and enjoyment of the property, therefore the plaintiff filed suit for declaration and consequential relief of permanent injunction in respect of title over the property.

4. The brief averments of the written statement are as follows:

The suit is not maintainable and all the allegations levelled in the plaint are denied , The plaintiff are put to strict proof of the allegations levelled in the plaint,. The sale deed dated 01.04.1994 and the alleged settlement deed dated 11.05.1982 are not admitted by the defendants. The alleged oral partition and the subsequent coor chit are denied by the defendants. The alleged partition deed dated 25.10.1985 is also not admitted by the defendants. Originally the suit property an extent of 52 cent in dry land SF No.75/1 along with other properties were purchased



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by this defendants' mother's sister Kokilammal under the registered sale deed dated 07.10.1948 from the one Subramani for valid consideration. Since then she had been in possession and enjoyment of the property. While so she had executed a settlement deed dated 10.07.1965 in favour of his sister Lakshmiammal, Muthamula reddy, Rajaram reddy and Pattibiramreddy. Patta was also granted in their name and they are also paying kist to the Government. There after the sons of lakshmiammal have orally partitioned the suit property by dividing 0.27 ½ cents allotted to Rajaram reddy to an extent of 24 cents allotted to Muthumula reddy they are in possession and enjoyment of the property. The first defendant Rajaram reddy had had settled his share to his wife through settlement deed dated 27.05.2009 in turn the second defendant sold the portion of the property to one Janakiraman through sale deed dated 02.11.2009,thereafter the second defendant had also sold some portion of the property to Balasubramaniam reddy through sale deed dated 02.11.2009. Further the second defendant executed settlement deed in favour of the fifth defendant to some extent of the property through settlement deed dated 02.11.2009 and also executed settlement deed infavour of the sixth defendant through settlement deed dated 02.11.2009.



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The alleged coor chit also not proved and it is also self serving document and the plaintiff has no right to claim the suit property. Neither the plaintiff nor his predecessors have taken any steps to change the revenue records in their name. Therefore plaintiff is not in possession and enjoyment of the property. The Kokilammal has already filed a suit in O.S. No.154 of 1949 and got declaration decree against Vasutheva Naidu and other and the plaintiff is totally stranger to the suit property, therefore the suit is liable to be dismissed.

5. Based on the above said pleading and after hearing both sides, the trial Court framed the following issues:

- a) Whether the suit property belongs to plaintiff?*
- b) Whether the plaintiff is entitled to decree for declaration, title and consequential relief of permanent injunction?*
- c) Whether the settlement deed dated 27.05.2009 executed by the first defendant in favour of the second defendant is valid?*
- d) Whether the settlement deed dated 02.11.2009 executed by the fifth defendant in favour of the second*



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defendant is valid

e) Whether the settlement deed dated 02.11.2009 executed by the second defendant in favour of the sixth defendant is valid?

f) Whether the sale deed dated 02.11.2009 executed by the second defendant is valid?

g) Whether the sale deed dated 02.11.2009 executed by the second defendant in favour of the fourth defendant is valid

h) To what other relief the plaintiff is entitled to ?

6. Before the trial court on the side of the plaintiff P.W.1 was examined and Exhibits A1 to A15 were marked. On the side of the defendant first defendant was examined as D.W.1 and marked exhibits Ex.B.1 to B.12.

7. After evaluating the oral and documentary evidence adduced on both sides the trial Court dismissed the suit . Aggrieved by the said decree and judgment the plaintiff has preferred appeal before the Sub Court , Maduranthagam in As. No. 17 of 2013 on various grounds.

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8. While pendency of the first appeal the appellant has filed an interlocutory application in IA No.82 of 2014 and 120 of 2014 to receive additional documents.

9. The first appellate Court has framed the following points for determination

- a) Whether IA No.82 of 2014 has to be allowed or not ?*
- b) Whether IA No.120 of 2014 has to be allowed or not?*
- c) Whether the plaintiff has title over the suit properties?*
- d) Whether is plaintiff was in possession and enjoyment from the date of filing of suit?*
- e) Whether the plaintiff is entitled to decree for declaration and for permanent injunction in respect of suit property?*
- f) Whether the settlement deed dated 27.05.2005 executed by the first defendant in favour of the second*



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defendant is null and void and binding on the plaintiff?

g) Whether the settlement executed by the second defendant in respect of respondents 5 and 6 and the sale deed executed in favour of the defendants 3 and 4 are null and void and plaintiff is entitled to decree for declaration in respect of those documents?

10. Thereafter the first appellate Court allowed the IA No. 82 and 120 of 2014 and received document and those documents were marked as Ex.16 to 20 in the appeal and the main appeal was dismissed, by confirming the decree and judgment of the trial court.

11. During the pendency of the second appeal the respondents have filed an application in CMP No.499 of 2026 to receive additional documents and to reopen the case alleging that the petitioner has now only obtained the village FMB sketch in respect of S.No. 78 and the same is very essential to prove the case of the respondents.



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12. The learned counsel appearing for the appellant would submit that plaintiff purchased the property from one Balakrishnareddy, Kuppammal and Ramabai through sale deed dated 19.04.1999 and she is in possession and enjoyment of the property. Whiles, the first defendant executed settlement deed in favour of the second defendant in respect of the suit property and intum the second defendant executed settlement deed in favour of the defendants 5 and 6 and also executed sale deed in favour of the defendant 3 and 4 and thereby filed suit. Infact the suit property comprised in SF No.74/1 measuring 52 cents was purchased by one Duraisamy Reddyar from Kuppusamy and Ramalingam through sale deed Ex.A10 dated 11.08.1910. The total extent of property situated in SF No. 75 is 1.54 acres. After sale of property to one Duraisamy Reddiyar on 25.08.1950 the said Kuppusamy and Ramalingam had partitioned the remaining extent of the property through partition deed Ex.A.1 for an extent of 1.03 acres in SF NO. 75/1 along with other properties. In that partition eastern side was allotted to Kuppusamy and western side was allotted to one Ramalingam. Thereafter the said Kuppusamy mortgaged his properties allotted through the partition to one Natesa Chettiyar under Ex.A.11 dated 09.10.1915.



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12.1. Thereafter due to non payment of the above said mortgage amount by the said Kuppusamy the Natesan Chettiyar the mortgagee filed a suit and brought the properties of Kuppusamy for sale including properties situated in SF No. 75/1 to an extent of 51 ½ cents. In the said court auction sale proceedings one Gnanambalammal was a successful bidder and she purchased the property through court auction sale and sale certificate dated 20.12.1936/Ex.P.9 was also issued by the court in favour of Gnanambalammal. After the demise of said Gnanambalammal her son Subramani had sold the said court auctioned property comprised in S.No.75/1 to an extent of 51 ½ cents to one Kokilammal through Ex.A.16 /sale deed dated 07.10.1948. Thereafter the said Kokilammal who is the first defendant's mothers' sister settled the property through Ex.A.4/settlement deed dated 10.07.1965 in SF No. 75/1 to an extent of 51 ½ cents in favour of her sister Lakshiammal, Govindareddy , Muthumalai reddy and the first defendant Rajaram reddy and Pattabireddy.

12.2. The first defendant claimed that he and his brothers Muthumalai reddy, Govindareddy and Pattabireddy are sons of

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Ramalinga reddy who was allotted the western portion in SF No.75/1 to extent of 51 ½ cents under Ex.A.12/partition deed. Therefore the first defendant Rajaram reddy and his three brothers are entitled to 1.03 acres of land in SF No.75/1 ie., 51 ½ cents inherited from their father Ramalinga Reddiyar and 51 ½ cents through settlement deed from Kokilammal. Thereafter through Ex.A.15 dated 25.10.1985 dated first defendant and his brother Govinda reddy and pattabireddy had partitioned their family properties including their properties in SF No.75/1 to an extent of 1.03 acres whereby the Pattabireddy first defendant brother was allotted entire property of 1.03 acres in SF No.75/1 and along with other properties and the first defendant was not allotted any share in SF No. 75/1, therefore the entire property was allotted to the Pattabireddy. The first defendant has no any piece of land in SFNo.75/1. Whiles. The first defendant executed settlement deed in favour of his wife and in turn his wife executed settlement deed in favour of the defendants 5 and 6 and also executed sale deed in favour of third and fourth defendants, therefore the first defendant had no right over the property to execute the settlement deed in favour of the second defendant.



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12.3. Infact in all the deeds/Ex.1, 2, 4, 9, 15 and 16 the suit property was mentioned as eastern boundary which belongs to Duraisamy reddy , therefore the defendants have no right and title over the property, however courts below failed to consider the case of the plaintiff and on wrong identification of the property came to conclusion that the property purchased by Kokilammal is the subject mater of the property. Infact out of total extent of 1.54 acres, 52 cents was purchased by Duraisamy reddy dated 11.08.1910/Ex.A10 and thereafter the remaining property of 1.03 acres in SF No. 75/1 was partitioned between the Ramalinga reddy and Kuppusamy reddy. Each were allotted 51 ½ cents through partition.

12.4. The property of Kuppusamy reddy was mortgaged with Natesan chettiyar and Natesan chettiyar brought the property for court auction and through Ex..P.9 the property belongs to kuppusamy reddy was brought for sale and sale deed was executed in favour of one Gnanambalammal. The son of Gnanambalammal sole the property to the Kokilammal. The said Gokillammal executed settlement deed in favour of the first defendant and his brother. Therefore the properties of Kuppusamy was brought for sale and the property purchased by



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Kokilammal is not the suit property and the suit property was purchased by the plaintiff from heirs of Duraisamy reddy, therefore the Courts below under mis-identification of the property dismissed the suit ,therefore the courts below have committed error and the decree and judgment passed by the court below are liable to be set aside.

12.5.Further the respondents have application under order 41 Rule 21of CPC to receive additional documents which is no way relevant to the subject matter of the property and the said sketch is pertaining to SF No. 78/1 whereas the disputed property is pertaining to SF No.75/1, thereby the petition C.M.P. No. 499 of 2026 is liable to be dismissed.

13. The learned counsel appearing for the respondent would submit that originally the property belongs to Subbareddy and subba reddy had two wives and through his first wife Balammal he has one daughter namely Balammal and through his second wife he had two sons. Both the wife and daughter's name are one the same . The said Balammal got married with one Indalur Duraisamy . The father of said Durasamy Reddy also Subbareddy. The Kuppusamy reddy had settled his share in

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favour of his younger brother Ramalinga Reddy by appointing his mother as guardian . In the meanwhile the son -in -law of subba reddy the Indalu Duraisamy reddy planned to grab the entire property had created documents as if he had purchased the properties in SF No.75 to an extent of 52 cents through document date 11.08.1910.. In the meanwhile one Natesan Chettiyar had filed suit for recovery of money in OS No.15 of 1920 and filed execution petition in EP NO. 105 of 1935 and brought the property for court auction. Through execution proceedings, the subject matter of property was sold to one Gnanambalammal and thereafter one Subramanian who is the son of Gnanambalammal sold the said property which was purchased through court auction to one Kokilammal who is the sister of the first defendant's mother through sale deed date 07.10.1948/Ex.P.1. The said Kokilammal had no issues thereby she settled the said properties purchased by her through Ex.B.1 in favour of her sister's son Muthumalai reddy, Govinda reddy, Rajaram reddy and Pattabireddy through settlement deed dated 10.07.1965/Ex.P.7. Thereafter Rajaram reddy and Pattabireddy partitioned the suit property into two .Rajaram reddy allotted 0.27 ½ cents and Pattabireddy was allotted 24 ½ cents . The said Pattabireddy and his legal heirs are also the necessary



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parties to the suit.

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13.1. Based on the above said partition the first defendant rajaram reddy become the absolute owner of 27 ½ cents, thereby the said Rajaram reddy first defendant settled the suit property in the name of his wife Vijaya through settlement deed dated 27.05.2009/Ex.A.5. In turn the said Vijaya executed sale deed in favour of defendants 3 and 4 each to an extent of 4 ¾ cents through separate sale deeds dated 02.11.2009. D2 Vijaya also executed sale deed in favour of defendants 3 and 4 through sale deed dated 02.11.2009 therefore the suit property belonged to Kokilammal and the Gokilammal settled the property in favour of the sons of his sister namely Lakshmiammal wife of Ramalinga reddy, therefore the plaintiff has no any right or title over the property.

13.2. According to the plaintiff his vendors grand mother entitled to property through oral partition and coor chit and the said coor chit has not been produced as document, therefore tracing the title of the plaintiff has not been proved and the suit is liable to be dismissed. Both the courts



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have analysed the evidence's adduced on both sides and fairly came to conclusion that the plaintiff is not entitled to the relief and the second appeal is liable to be dismissed. Further during the pendency of the appeal the respondents have filed application in CMP No. 499 of 2026 to receive the document in village FMB in S.No.78/1, which is vital document to decide the case and the said document has to be received and marked as additional evidence.

14. Heard both sides and perused the materials available on record.

15. For the sake of convenience and brevity, the parties in this appeal hereinafter will be referred to as per their status/ ranking in the trial court.

16.This Court at the time of admitting the second appeal had formulated the following substantial questions of law

a) Whether the trial Court below are right in law in dismissing the plaintiff's suit without noticing that the suit property and the property in



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respect of which the defendant claims title are different properties?

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b) Whether the first appellate Court right in law in shifting the burden on the plaintiff that he shall disprove that the first defendant had obtained 27.5 cents of land by way of partition from his brother Pattabi when the defendants himself failed to prove the same?

c) Whether the first appellate Court right in law in shifting the burden on the plaintiff that he shall prove the property sold under Ex.B.9 is not the property subject matter of Ex.A.10 purchased by the said Duraisamy?

17. In this case the plaintiff has filed suit for the relief of declaration in respect of title of the suit property and consequential relief of permanent injunction and also sought for the relief of declaration in respect of the documents executed between the defendants. According to the plaintiff the suit properties were purchased from one Balakrishna reddy, Kuppammal and Ramabai through sale deed dated 19.04.1999. According to the first defendant the suit property not belongs to the vendor of the plaintiff. The suit properties belongs to the first defendant



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and his brothers through settlement deed executed by his maternal aunt.

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Her maternal aunt namely Kokilammal purchased the property from one Subramani who is the son of one Gnanambalammal. The said Gnanambalammal purchased the property through court auction and thereby the suit property originally belonged to Gnanambalammal and thereafter the same was purchased by Kokilammal and the Kokilammal settled the property in favour of the first defendant and his brother. Thereafter the first defendant and his brother Pattibireddy partitioned the property and through that partition the 27 ½ cents were allotted to Pattibireddy, therefore the first defendant and Pattibireddy are entitled to suit property. Infact it is admitted by both parties that the total extent of the property in S.No.75/1 is 1.54 acres.

18.Originally the property belongs to Subbareddy and the said Subbareddy had two sons namely Kuppusamy reddy and Ramalinga Reddy. The said Kuppusamy Reddy and Ramalinga Reddy both had sold the properties to one Duraisamy Reddy through sale deed dated 11.08.1910. However the said sale deed has been denied by the first defendant, according to the 1st defendant the said Subbareddy to grab the

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entire property created the documents as if he purchased the property. The said document is dated 11.08.1910 and thereafter the first defendants' father Ramalinga Reddy and Kuppusamy reddy had partitioned the properties through partition deed dated 25.08.1950. In that partition eastern side of S.No. 71/5, 51 ½ cents was allotted to Kuppusamy Reddy and the western side of the 75/1 to extent of 51 ½ cents was allotted to the father of the first defendant namely Ramalinga Reddy through sale deed dated 11.08.1910. The extreme eastern side of 52 cents were already sold to Duraisamy Reddy. The said Kuppusamy reddy mortgaged the property to one Natesan Chettiyar in respect of his share including the share allotted in SF No 75/1 to an extent of 51 ½ cents and the Natesan Chettiyar brought the properties for sale through court auction and the said property was purchased by one Gnanambalammal in SR No.75/1 to an extent of 51 cents, through court auction and the same was also admitted by both the parties.

19. In the partition deed/Ex.A12 the eastern side boundary was mentioned as property of Duraisamy Reddy in the sale deed executed by the Court in favour of Gnanambalammal also the property of Duraisamy

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Reddy has been referred as one of the four boundaries. The said property purchased by the Gnanambalammal was sold to the Kokilammal through son of Gnanambalammal namely Subramani. In the sale deed also eastern boundary was mentioned as plaintiffs' predecessor land therefore from the above said deeds it is clear that the eastern end of the SF 75/1 to an extent of 52 cents were already sold to Subbareddy and the remaining 1.03 was partitioned between the Kuppusamy Reddy and Ramalinga Reddy. The first defendant is the son of Ramalinga Reddy and the Kuppusamy redy property was mortgaged with Natesan Chettiyar and the said Natesan Chettiyar brought the property of Kuppusamy Reddy for auction and the said property was sold to Gnanabalammal and the said Gnanambalammal's son sold the property to Kokilammal therefore the property purchased by Kokilammal was belonged to Kuppusamy Reddy. Now the first defendant is claiming that the property purchased by Kokilammal is not belongs Kuppusamy Reddy and there is a dispute in respect of identification of the suit property.

20. Even according to the first defendant the said Kokilammal settled the property in favour of his sisters four son namely Muthumalai

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Reddy, Govinda Reddy, Pattabireddy and the Rajaramreddy. Already the property allotted to the father of the first defendant namely Ramalinga Reddy had 51 ½ cents in SF No. 75/1 and the property settled by the Kokilammal to an extent of 51 ½ cents was belonged to the sons of Ramalinga Reddy, therefore all the sons of Ramalinga Reddy are jointly entitled to 1.03 acres in SF No. 75/1. While so, according to the first defendant the property settled by the Gokilallamal was partitioned between the Pattireddy and Rajaramreddy, once the property was settled in favour of first defendant and his three brothers how the property which settled in favour of four persons was divided between the Pattabireddy and the first defendant alone has to be explained. There is no any proper explanation by the first defendant to that regard. Therefore from the above said evidences it is clear that the properties purchased by Kokilammal was originally belonged to Kuppusamy Reddy and the suit property was purchased by Duraisamy Reddy thereby the suit property is not belonged to Kokilammal.

21. The suit property was purchased by plaintiff's predecessor.

However the Court below misunderstood the identification of the
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property and without considering the four boundaries mentioned in all the previous documents by mentioning the property of the plaintiff predecessor as eastern boundary of the property, wrongly came to the conclusion that the properties purchased by the Kokilammal is the suit property. However on perusal of the partition deed dated 25.08.1985/A15 the entire property in SF No. 75/1 to an extent of 1.03 acres was allotted to Pattibireddy and the first defendant has no right over the property in SF No.75/1. The suit filed by the plaintiff is for the relief of declaring the right of the property pertaining to SF No. 75/1. While so the said Pattabireddy to whom the property in SF No. 75/1 was allotted through partition is also a proper and necessary party to the proceedings. However the plaintiff has not included the said Pattabireddy as party in the suit. Without his presence the relief in respect of declaration of the property cannot be granted. As far as other reliefs in respect of sale deed and settlement deed are concerned after deciding the right of the plaintiff in respect of suit property, those claims have to be decided, therefore it is not appropriate to decide the suit without the presence of Pattabireddy, to whom the entire property in SF.No 75/1 to and extent of 1.03 acre was allotted through partition.



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22. Though the first defendant has taken a plea of non joinder of necessary parties the courts below have not considered the above plea of non joinder of necessary parties and the 'courts below have come to a wrong conclusion that the suit property was purchased by Kokilammal, thereby the plaintiff has no right over the property . The sale deed in the name of plaintiff is dated 19.04.1998. the settlement deed in favour of the second defendant by the first defendant and other settlement deed and sale deeds executed by the second defendant are subsequent to the sale deed in favour of the first defendant therefore in order to decide the title of the property the Pattbireddy is a proper and necessary party.

23. Since the Court below have not framed proper issues in respect of non joinder of necessary party which is very essential to decide the case it is appropriate to set aside and decree and judgment passed by the Courts below and to remand back the matter to the trial Court and the trial Court has to consider the case as afresh by framing proper issues and affording opportunities to both the parties. The appellant/plaintiff is at liberty to file petition to implead the Pattabireddy or his legal heirs as



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party to the proceedings and thereby this Court without answering the Substantial question of law is inclined to remand back the matter to the trial court for fresh consideration.

24.In view of the decision taken in the main appeal CMP No.499 of 2026 is closed. The parties are at liberty to file those documents before the trial Court, if it is relevant to the suit property.

25.In the result the second appeal stands allowed and the decree and judgment passed by the learned District Munsif, Madurantakkam in O.S.No98 of 2010 confirmed by the learned Sub Ordinate Judge at Madurantakkam in AS.No.17 of 2013 are set aside and the matter is remanded back to the trial Court for fresh consideration by framing proper issues and after affording opportunities to both parties. No cost.

30.03.2026

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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- To
1. The Sub Ordinate Judge, Madurantakkam
 2. The District Munsif, Madurantakkam
 3. The Section Officer, VR Section, High Court, Madras.



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P.DHANABAL, J.

MJS

PRE-DELIVERY JUDGMENT IN
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and C.M.P. No.499 of 2026

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