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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-10-2026

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

SA No. 18 of 2023 &
SA NO. 20 OF 2023
CNR:{HCMA010528672022}
AND
CMP NO. 479 OF 2023 &
CMP NO. 482 OF 2023

Jayalakshmi Ammal
W/o.Subramani,
Eraiyur Village and Post,
Vanur Taluk, Villupuram District

..Appellant(s) in
both S.A.s

Vs

1. Rajendran
   S/o.Varnamuth,
   Eraiyur Village and Post, Vanur Taluk,
   Villupuram District.

2. Anjali
   W/o.Rajendran,
   Eraiyur Village and Post, Vanur Taluk,
   Villupuram District

..Respondent(s) in
both S.A.s

PRAYER IN SA No. 18 of 2023

Second Appeal filed under Sec.100 of C.P.C., praying to set aside the Judgement and Decree of the Learned Principal Subordinate Judge, Tindivanam in AS No.21 of 2015 dated 26.11.2021 partly allowing and partly reversing the Judgement and Decree of the learned District Munsif Cum Judicial Magistrate, Vanur in OS No.6 of 2005 dated 29.06.2015.

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PRAYER IN SA No. 20 of 2023

Second Appeal filed under Sec.100 of C.P.C., praying to set aside the Judgement and Decree of the Learned Principal Subordinate Judge, Tindivanam in Cross Appeal No. 41 of 2015 in AS No.21 of 2015 dated 26.11.2021 partly allowing and partly reversing the Judgement and Decree of the learned District Munsif Cum Judicial Magistrate, Vanur in OS No.6 of 2005 dated 29.06.2015.

In both SAs

For Appellant(s): Mr.S.Kaithamalai Kumaran

For Respondent(s): Mr.N.Suresh For R2
R1 --died

COMMON JUDGMENT

Challenging the findings of the first appellate court, the plaintiff had preferred these Second Appeals.

2. For the sake of convenience, both parties are denoted as per the ranking in the suit.

3. Before the trial court, the plaintiff had filed the suit for declaration and the consequential relief of injunction in respect of Item Nos.1 and 2 of suit property. The item no.1 is pertaining to Plot No.46 and item No.2 is pertaining to Plot No.45. She claimed right and title in respect of both properties and stated that the defendants have caused interference. Accordingly, she came forward with the suit for the relief of declaration.

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4. The said suit was contested by the defendants stating that in respect of item No.1 (Plot No.46), he has no objection, but he raised objections in respect of item No.2 (Plot No.45). He further contended that he purchased the said property for a valid consideration and claimed as absolute owner in respect of item No.2 (Plot No.45). Both parties have adduced evidence. On hearing both sides, the suit was decreed partly and the same was confirmed by the first appellate judge declaring that in respect of item No.1 (Plot No.46), the plaintiff is having valid sale deed, thereby held that item No.1 (Plot No.46) is belong to the plaintiff by way of purchase, but the claim of the plaintiff in respect of item No.2 (plot No.45), she claimed right based on an unregistered sale deed, which is not sustainable in law, since it requires valid registration. Therefore, it would not confer valid right and title. However, the courts below observed that the plaintiff is in possession of item No.2 also. Therefore, the relief of permanent injunction alone was granted. The claim of defendants also not accepted by the trial court holding that the sale deed in respect of item No.2 (plot No.45) has not been proved.

5. Aggrieved over that findings, the defendants have preferred an appeal in Appeal Suit No.21 of 2015 and the plaintiff had filed the Cross-Appeal in Cros.A. No.41 of 2015. The first appellate judge on hearing both sides, framed separate points for consideration and finally held that the plaintiff failed to

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prove her right and title in respect of item No.2 (plot No.45), however, the defendants proved that they are having valid right and title in respect of item No.2 (plot No.45) by relying title deed and also observed that the defendants are in possession of item No.2 (plot No.45). Therefore, the Appeal Suit filed by the defendants in A.S.No.21 of 2015 was partly allowed and the appeal suit filed by the plaintiff in A.S.No.41 of 2015 was dismissed as she is not entitled for the relief of declaration in respect of item No.2 (plot No.45). Aggrieved over that findings, the plaintiff had preferred both the Second Appeals.

6. Brief facts of the case is as follows:-

The plaintiff claiming right over the property. Based on the purchase, she stated that plot Nos.45 and 46 in Survey No.203/1 originally belongs to one Munusamy and Duraisamy. After the demise of Munusamy, his legal heirs have sold the property in favour of plaintiff through the sale deed dated 10.05.1994. She had also contended that from Duraisamy's daughter Govindammal, she purchased Plot No.45 through unregistered sale deed dated 14.05.1994. After the purchase, she is in possession and enjoyment of entire suit property. Due to the previous enmity, the defendants caused interference. Therefore, she came forward with the suit.

7. The case of defendants is that the suit property is the poramboke land and plot No.45 was assigned by the Government to one Duraisamy and after his

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demise, legal heirs of Duraisamy sold the plot No.45 to 1st defendant through valid registered sale deed on 20.09.2004. Eversince, he is in possession and enjoyment of the property. Therefore, he is disputing the plaintiff's claim in respect of item No.2 (plot no.45) stating that the unregistered sale deed would not confer any right and title in favour of plaintiff. Hence, he prayed to dismiss the suit in respect of item no.2 (plot No.45).

8. Both parties have adduced their oral and documentary evidence. On considering the same, the trial judge held that based on the Sale deed marked as Ex.A1, the plaintiff perfected right and title in respect of item No.1 (plot No.46). In respect of item No.2 (Plot No.45), the trial judge held that an unregistered sale deed marked as Ex.A2 would not confer any right, since the document is unregistered and it requires valid registration by relying the ratio laid down in the authority reported in ***AIR 2003 SC 1905*** in the case of ***Bondar Singh and others vs. Nihal singh and others.*** The trial judge had also held that the document is not admissible for the lack of registration, but in respect of possession, it can be taken into consideration as a collateral purpose. Accordingly, the trial judge had held that the plaintiff is in possession of both properties. Therefore, the relief of declaration was granted in respect of item No.1 (plot No.46) and in respect of item No.2 (plot No.45), the injunction was granted and also rejected the claim of defendants, who claimed right and title over the property based on the sale deed Ex.B5. But the trial judge held that

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Ex.B5 was not proved by examining one of the attestor, since the said document was denied by the plaintiff. Aggrieved over the said findings, both the plaintiff and defendants have preferred Appeals. Against the dismissal of declaration in respect of item No.2 (plot No.45), the plaintiff had preferred Cross Appeal in Cros.A.No. 41 of 2015 and in respect of findings given against the defendants in respect of item No.2 (plot No.45), the defendants have preferred Appeal in A.S.No.21 of 2015.

9. Both the appeals were tried jointly by the first appellate court and framed separate points for consideration. Considering the evidence on record, the first appellate judge had held that as per Ex.A3 assignment order given by the Government, the Patta land was given to poor people. Accordingly, plot no.45 was assigned to Duraisamy and Plot No.46 was assigned to his brother Theerthamalai. The plaintiff purchased plots from the legal heirs of Munusamy viz., Plot No.46, but the plaintiff claimed right over both plot Nos.45 and 46 stating that she had purchased the same through unregistered document, which was not accepted by the first appellate court holding that an unregistered Sale deed Ex.A2 would not confer title and it is apparently seen that the document is is not genuine and valid document for the reason that the stamp paper was purchased in the year 1987, but it was written only in the year 1994 after the period of seven years. So, the said document Ex.A2 is not genuine one and it was not accepted and also held that the document has also been not registered.

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Therefore, the claim made by the plaintiff based on the unregistered sale deed Ex.A2 is not acceptable one, even it cannot be used for collateral purpose. Since it is not properly stamped and genuineness has also not been proved. Therefore, the first appellate judge has held that injunction granted in respect of second item by the trial judge also erroneous one. Accordingly, the Cross-Appeal filed by the plaintiff was dismissed. By relying Sale deed Ex.B5, the first appellate judge has held that it is a registered document, which need not be proved by examining attestor as observed by the trial judge and Ex.B5 on the face of record proves that it is a valid document, since Govindammal, vendor is having valid right and title as a legal heir of Duraisamy. Accordingly, the first appellate judge held the Ex.B5 as a valid document, thereby the defendants perfected right and title in respect of item No.2 (Plot No.45). Based on that, the appeal preferred by the defendants in Appeal Suit No.21 of 2015 was allowed. Now, challenging the said findings, the plaintiff preferred these Second Appeals.

10. The learned counsel for appellant argues that the courts below failed to take note of the fact that as on date, the plaintiff is in possession of item No.2 (Plot No.45), which was rightly observed by the trial court, but the first appellate court failed to appreciate the same and erroneously held that the defendants perfected right and title, thereby they are having right and title in respect of item No.2 (plot No.45) as such is erroneous one. Hence, he prayed to set aside the findings of the courts below.

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11. The learned counsel for respondents argue that there is no substantial question of law for consideration of both Second Appeals, since the plaintiff has failed to prove her right and title in respect of item No.2 (plot No.45) and rightly held that an unregistered document would not confer right and title. Based on that, the courts below had granted the relief in favour of defendants as such is sustainable in law. Hence, he prayed to dismiss these Second Appeals.

12. Considering the facts and circumstances of the case as well as considering submissions made by both learned counsel for appellant and respondents, both the Second Appeals are admitted on the following substantial question of law :-

(i) Whether the decree of the lower appellate court that plaintiff is not entitled to the relief of declaration and injunction in respect of suit item II is legally sustainable when the appellant has proved the title and possession over suit item I?

(ii) Whether the decree of the courts below are sustainable in denying the relief of plaintiff's title over the suit item II, at the instance of defendants, who have not established that they are the true owners, but admits the title of the plaintiff's vendor (Govindammal)?

(iii) Whether the courts below are correct in overlooking the principle "Title follows possession" with vacant lands such as item 2

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of suit property especially when neither of the parties cleared the cloud over the title, but the plaintiff proved possession over the same?

13. On seeing the facts, it is seen that in respect of item no.1 (plot No.46), there is no dispute. The disputed property is only with respect to item no.2 (plot No.45). The plaintiff claimed right based on the unregistered sale deed marked as Ex.A2. The defendants claimed right based on the sale deed Ex.B5. The contention of plaintiff is that Ex.A2, an unregistered document given by daughter of Duraisamy in the year 1994 and eversince, she is in possession of the property. Admittedly, Duraisamy was assigned with plot No.45 by the Government, after his demise, Govindammal, his legal heir enjoyed the property. The plaintiff claimed that she purchased the property from Govindammal through unregistered sale deed Ex.A6. The defendants have also claimed right over Plot No.45 based on the registered Sale deed Ex.B5. As per Sec.17 of Registration Act, it requires compulsory registration valued for more than 100 rupees in immovable property. The plaintiff contended that she had paid the sale consideration of Rs.675/-, but failed to register the document. Therefore, the unregistered document would not confer any right. Furthermore, the first appellate judge has held that the unregistered document itself is not genuine one as stamp papers were manipulated for unlawful purpose. Therefore, the unregistered sale deed Ex.A2 is not valid document nor it confers any valid right. Hence, the findings rendered by the first appellate court requires no

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interference. The title following possession, the defendants proved that the 1st defendant purchased the property in respect of item No.2 (Plot No.45) for a valid consideration through Ex.B5, besides the defendants produced receipts, which shows that they are in possession the property. Therefore, the defendants proved that the 1st defendant is the absolute owner of item No.2 (plot No.45). Hence, the first appellate court rightly allowed the appeal filed by the defendants in A.S.No.21 of 2015 and also rightly dismissed the appeal in A.S.No. 41 of 2015 filed by the plaintiff, which requires no interference. Accordingly, the question of law (1) to (3) are answered. Accordingly, both the Second Appeals are dismissed. The relief claimed in the suit in O.S.No..6 of 2005 in respect of item No.1 (plot No.46) is decreed and the relief in respect of item No.2 (plot No.45) is dismissed. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

30-10-2026

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

RPP

To

1. The Principal Subordinate Court, Tindivanam.

2. The District Munsif, Vanur.

3. The Section Officer, VR Section, Madras High Court.

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