



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

WEB COPY

S.A.No. 721 of 2022 and W.P.No. 25213 of 2021

T.V.THAMILSELVI, J.

This matter was taken up for hearing under the caption “For Being Mentioned” today at the instance of the learned counsel for the appellant.

2. The learned counsel for appellant would submit that this Court by an order dated 10.02.2026 allowed the above Second Appeal. However, he would submit that in para 18, instead of mentioning as “Second Appeal is allowed”, it was mentioned as “Second Appeal is dismissed”. Hence, he prayed to amend the same and requested to issue fresh order copy.

3. Furthermore, the learned counsel appearing for the petitioner in W.P.No. 25213 of 2021 submitted that on the date of disposal, Mr.G.Rajagopal, Senior Advocate had appeared and argued on his behalf. But, his name was not mentioned in the counsel appearance column. Hence, he prayed to mention the same in the order.

4. Considering their submissions, Registry is directed to substitute para 18 as follows :-



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

WEB COPY

“18. With the aforesaid directions, this Second Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.”

Furthermore, Registry is directed to mention Mr.G.Rajagopal, Senior Advocate in the appearance column in W.P.No. 25213 of 2021 and to delete the name of Mr.AR.L.Sundaresan in the appearance column.

5. Registry is directed to incorporate above correction in the Order of this Court in S.A.No.721 of 2022 and W.P.No. 25213 of 2021 dated 10.02.2026 and issue fresh order copy to the appellant.

15.04.2026

rpp



WEB COPY



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

T.V.THAMILSELVI, J.

rpp

S.A. No.721 of 2022 and
W.P.No. 25213 of 2021

15.04.2026



WEB COPY



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-02-2026

CORAM

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

SA No. 721 of 2022 and WP No. 25213 of 2021

AND

CMP No. 14304 of 2022

P.Ramesh

S/o. Ponnan, Plot No.29, D.No.21, Periyar Nagar,
1st Street, West Velachery, Chennai 88.

..Appellant(s)

..Vs..

1.Irudaya Mary(died)

W/o.Ponnan, Plot No.28, D.No.21, Periyar Nagar,
1st Street, West Velachery, Chennai 88.

(R1 died,Sole appellant and RR2 to 4 already on
record are recorded as LRS of the deceased
R1.memo dated 28/07/2025 recorded vide Court
order dated 28/07/2025 made in SA.No.721 of
2022 in CMP.No.14304 of 2022(KGTJ))

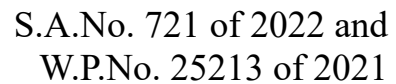
2.Priya @ Christina Priya

W/o. Joseph Manohar, Plot No.28, D.No.21,
Periyar Nagar, 1st Street, West Velachery,
Chennai-600 088.

3.P. Suresh @ Immanuel

S/o Ponnan, Plot No.28, D.No.21, Periyar Nagar,
1st Street, West Velachery, Chennai 88.

4/25



5.Tamil Nadu Slum Clearance Board
Rep by Managing Director, No.5, Kamarajar Salai,
Chepauk (Post Box No.157), Chennai- 5.

6.N.Nesan
S/o. Navneetham, No.14/A, 2nd St, Ex Serviceman
Colony, Adambakkam, Chennai 88.
(R6 impleaded as party respondent vide Court
order dated 11/12/2025 made in CMP.No.31039 of
2025 in SA.No.721 of 2022(TVTSJ))

..Respondent(s)

WP No. 25213 of 2021

P.Ramesh
S/o.Ponnan, Res.at Plot No.29, Door No.21,
Periyar Nagar, 1st Street, West Velachery,
Chennai-600088

..Petitioner(s)

..V_S...

1.The State of TamilNadu
Rep by Secretary, Housing and Urban
Development, Fort St.George, Chennai-600 009.

2.The TamilNadu Slum Clearance Board
Rep by its Managing Director,
No.5, Kamaraj Salai, Chepauk, Chennai-600 005

3.Irundayamary (Died),
W/o.Ponnan, Res.at Plot No.28, Door No.21,
Periyar Nagar, 1st street, West velacherry,
chennai-600 088 now res.at No.4/63,Bharathiyar
5/25



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

street, Periyathachur village, Tindivanam Taluk
Villupuram District.

4.Nesan

S/o.Navaneethan, Res.at No.14/A,2nd street, Ex-
service amn colony, Adambakkam,
Chennai-600 088.

5.Priya @ Christina Priya,
W/o. Joseph Manohar, Plot No.28, Door No.21,
Periyar Nagar, 1st Street, West Velachery,
Chennai - 600 088.

6.P. Suresh @ Immanuel,
S/o. Ponnann, No.16, Indira Gandhi Nagar, 4th
Street, West Velachery, Chennai - 600 088.

7.P. Sathish @ Peter Rock,
S/o. Ponnann, E3/70, SVS Nagar, Orathi Village and
Post, Maduranthagam, Chengalpattu - 603 307.
(R5 to R7 substituted as LRS of deceased 3rd
respondent vide order dated 28.07.2025 made in
WMP.29533/2025 in WP.25213/2021 by KGTJ)

..Respondent(s)

SA No. 721 of 2022

To set aside the Judgement and Decree 16.11.2021 made in
AS.No. 453 of 2018 on the file of V Addl. City Civil Court at Chennai,
which had confirmed the Judgement and Decree made in IA.No. 13414 of
2016 in OS.No. 908 of 2015 dated 08.08.2017 on the file of III Assistant
City Civil Court at Chennai.

6/25



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

WEB COPY

For Appellant(s):

Mr.S.Mukunth- Senior Counsel
(For M/s.Sarvabhauman Associates)

For Respondent(s):

Ms.K.Indumathy Venkatesan for R5
Mr. P. Sidharthan for R6
R1- Died
R2 & R4--Left
R-3- No appearance

WP No. 25213 of 2021

To issue a Writ of Mandamus directing 2nd respondent herein to cancel the sale deed executed in favour of 3rd respondent dated 24.2.2021 Registered as Document No.1670/2021 on the file of Sub Registrar Velachery, consequently, direct the 2nd respondent to execute the Sale Deed in favour of the petitioner.

For petitioner

: Mr.AR.L.Sundaresan

For Respondents
for R1.

: Mr.C. Sathish, Govt. Advocate

R2

Ms.K.Indumathy Venkatesan for

Mr. Baskar for R4

COMMON JUDGMENT

The Second Appeal has been filed to set aside the Judgement and



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

Decree dated 16.11.2021 made in A.S.No. 453 of 2018 on the file of V

WEB COPY

Additional City Civil Court at Chennai, which had confirmed the Judgement and Decree made in I.A.No. 13414 of 2016 in O.S.No. 908 of 2015 dated 08.08.2017 on the file of III Assistant City Civil Court at Chennai.

2. The appellant herein is the plaintiff and the respondents 1 to 4 herein are the 1 to 4 defendants in the original suit. The 5th respondent herein being the Tamil Nadu Slum Clearance Board, is the 5th defendant in the original suit. The 1st respondent/1st defendant is the mother of the appellant/plaintiff and the respondents 2 to 4/defendants 2 to 4 are siblings of the appellant/plaintiff.

3.The Writ petition has been filed by the petitioner/appellant to issue a Writ of Mandamus directing the 2nd respondent herein, to cancel the sale deed executed in favour of 3rd respondent dated 24.2.2021 registered as Document No.1670 of 2021 on the file of Sub Registrar Velachery, consequently, direct the 2nd respondent to execute the Sale Deed in favour of the petitioner.



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

WEB COPY

4.The petitioner herein is the plaintiff in the suit and the 2nd respondent herein is the 5th defendant, 3rd respondent herein is the 1st defendant and the respondents 4 to 6 are the defendants 2 to 4 in the Original suit.

5. The appellant in the Second appeal and the petitioner in the Writ petition is one and the same and since the matters in both cases are interlinked and connected each other, they have been taken together for final disposal.

6. For the sake of convenience, the parties are referred to as per the rank cited in the Original Suit.

7. Brief facts leading to the filing of the present Second Appeal is given as under :

(i) The suit property originally was a vacant plot measuring 1722 Sq.ft situated at Velachery Village, Chennai. The said plot was originally allotted to the 1st defendant as proceedings No.2023/2001/E4 dated

9/25



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

07.08.2001 by the Tamil Nadu Slum Clearance Board who is the 5th

WEB COPY

defendant in the suit. The plaintiff was working in the Indian Army and retired from his service. Since the 1st defendant was unable to make any payment for allotment of the said Plot, the plaintiff paid the monthly instalment to the Slum Clearance Board subject to undertaking of the 1st defendant to settle the property in favour of the plaintiff. Later, the 1st defendant executed unregistered deed of guarantee on 18.02.2002 and further executed a registered Power of Attorney in favour of the plaintiff on 25.07.2003. Subsequently, the 1st defendant executed an unregistered Settlement Deed dated 01.12.2010 and the defendants 2 to 4 executed a Relinquishment Deed after receiving Rs.2 Lakhs each and given consent letter dated 03.12.2009 in favour of the plaintiff. Thereafter, on the basis of no objection certificate, the plaintiff constructed a building in the aforesaid plot allotted to the 1st defendant and Electricity connection was obtained and all statutory dues were paid in the name of the plaintiff. Under such circumstances, the defendants 1 to 4 encroached the suit property claiming the right, title and interest over there. Hence, the plaintiff filed the suit in O.S. No.908 of 2015 on the file of the III Assistant City Civil Court, Chennai seeking for declaration, recovery of



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

possession and permanent injunction along with consequential prayer,
directing the defendants 1 to 4 to remove the encroachments.

(ii) In the Written statement filed by the defendants 1 to 4/respondents 1 to 4 herein, they denied all the allegations and averments made in the plaint that the 1st defendant executed a settlement deed in favour of the plaintiff on 01.12.2010 and other defendants executed relinquishment deed after receiving Rs.2 lakhs in respect of the suit property. They have stated that 1st defendant executed a registered power of attorney in favour of the plaintiff for the purpose of paying EMIs to Tamil Nadu Slum Clearance Board by the request of the plaintiff, but the plaintiff misused the power of attorney for obtaining Electricity connection and mutation of revenue records in his name. Hence, the 1st defendant cancelled the Power of attorney on 25.02.2015. Further, the documents alleged in the plaint ie. Sale Deed, Guarantee Deed, Settlement Deed and Relinquishment deed are created by the plaintiff for the purpose of case. They are in absolute possession of the suit property and never trespassed into the suit property as alleged by the plaintiff.

11/25



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

(iii) In the Written statement filed by the 5th defendant, it is averred

that the Plot No.29 was allotted to Tmt.Iruthaysmary W/o. Ponnann -1st defendant /mother of the plaintiff and the defendants 2 to 4. The case is purely their own family dispute. The Board can take action to issue sale deed only in the name of the allottee and never interfere with the allottee's family dispute after making allotment.

(iv) During the pendency of the suit, the defendants 1 to 4 have filed the petition under Order VII Rule 11 of C.P.C. in I.A. No.13414 of 2016 praying to reject the plaint. The Trial Court after considering the averments of the plaint and submissions made by the learned counsel on either side, allowed the aforesaid application holding that the suit is barred by Sections 29 and 65 of Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 thereby rejected the plaint. vide Judgment and Decree dated 08.08.2017. Aggrieved by the rejection of the plaint, the plaintiff/appellant filed A.S. No.453 of 2018 before the V Additional City Civil Court at Chennai in which the First Appellate Court held that the eviction of the occupants could be done with the permission of prescribed authority and the plaintiff did not obtain any permission from the



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

prescribed authority and have straight away approached the Court for possession and dismissed the aforesaid First Appeal and confirmed the Judgment and Decree of the Trial Court, relying upon Section 29 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act wherein it is enumerated as follows:

29. Proceedings for eviction of [occupants] not to be taken without permission of the prescribed authority :-

1. Notwithstanding anything contained in any other law for the being in force, no person shall except with the previous permission in writing of prescribed authority-

(a) institute, after the commencement of this Act any suit or proceedings for obtaining any decree or order for the eviction 1[an occupant] from any building or land in such area: or

(b) where any degree or order is obtained in any suit or proceeding instituted before such commencement for the eviction of 1 [an occupant] from any building or land in such area, execute such decree or order.

(2) Every person desiring to obtain the permission referred to in sub-section (1) shall make an application in writing to the prescribed authority in such form and containing such particulars as may be prescribed.

(3) On receipt of such application, the prescribed authority after giving an opportunity to the parties of being heard and after making such summary enquiry into the circumstances of the case as it thinks fit shall, by order in writing, either grant or refuse to grant such permission.



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

(4) In granting or refusing to grant permission under sub-section (3), the prescribed authority shall take into account the following factors, namely:--

(a) whether alternative accommodation within the means of the 1[occupant] would be available to him if he were evicted:

(b) whether the eviction is in the interest of improvement and clearance of the slum area;

(c) such other factors, if any, as may be prescribed.

(5) Where the prescribed authority refuses to grant the permission, it shall record a brief statement of the reasons for such refusal and furnish a copy thereof to the applicant.

Feeling aggrieved by the aforesaid Judgment and Decree, the plaintiff has filed the present Second Appeal. During the suit proceedings, the plaintiff has also filed W.P. 28692 of 2017 before this Court seeking to issue a Writ of Mandamus directing the 2nd respondent, to cancel the sale deed executed in favour of 3rd respondent dated 24.2.2021 registered as Document No.1670 of 2021 on the file of Sub Registrar Velachery, consequently, direct the 2nd respondent to execute the Sale Deed in favour of the petitioner.

8. The learned counsel for the appellant would submit that the



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

plaintiff has alone paid the initial payment and subsequent EMIs to the 5th

WEB COPY

defendant -Tamil Nadu Slum Clearance Board for the allotted plot in favour of the 1st defendant which is established by letter dated 03.12.2009 given by the 1st defendant and the 5th defendant by letter dated 07.06.2010 stated that Periyar Nagar Scheme was yet to be transferred in the name of the Board and they will consider it once GO was issued to the Board. The aforesaid facts are to be proved by way of oral and documentary evidence during the Trial proceedings. However, the Courts below has rejected the suit under Order 7 Rule 11 of CPC relying upon Section 59 and 65 of Tamil Nadu Slum Areas (Improvements and Clearance) Act, 1971. Since the Civil Rights of the parties can be determined by the Trial Court alone and not by the 5th defendant-Tamil Nadu Slum Clearance Board, by exercising its power under the Tamil Nadu Slum Clearance Board Act. Hence, the Judgment and Decree of the Lower Court is liable to be set aside.

9. The learned counsel for the appellant also pointed out that pending the appeal and the Writ petition, he has filed a memo before this Court with regard to amendment of the prayer in the suit plaint to not



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

press the second portion of the prayer of recovery of possession for the reasons that the defendants 2 to 4 are not in the occupation of the suit property and the plaintiff alone is in the possession of the suit property. Hence, the question of recovery of possession does not arise. Hence he seeks to amend the prayer in the plaint to that effect.

10.It has been further submitted that as per the terms of the Sale Deed executed by the Tamil Nadu Slum Clearance Board, the allottee/buyer should not alienate the property in favour of any one within a period of 10 years. But the 1st defendant has alienated the plot within a period of one month to one Mr.N.Nesan-6th respondent herein thereby she violated the terms of the Sale Deed executed by the Tamil Nadu Slum Clearance Board.

11. Per contra, the learned counsel for the 6th respondent has raised the objection to memo filed on the side of the appellant seeking for amendment of the prayer in the plaint pending the Second Appeal which is not acceptable one. He would further submit that the Tamil Nadu Slum Clearance Board has executed the sale deed vide Document No.1670 of



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

2021 dated 24.02.2021 in favour of the 1st defendant- Mother of the parties. Thereafter, the 1st defendant has sold out the property in favour of one N.Nesan/6th respondent herein by virtue of the Sale Deed dated 15.03.2021 in Document No.2712 of 2021. The suit property is the self acquired property of the 1st defendant, she had every right to alienate the suit property and accordingly, the necessary permission and GO has been obtained and in pursuance of such order, the schedule property was sold to the 6th respondent herein. In the pending Writ petition, the 5th defendant-Tamil Nadu Slum Clearance Board, has also stated that there is no violation in executing the Sale Deed in favour of the 1st defendant. As the plaintiff is living in the schedule property, the title of the suit property cannot be conferred in favour of the plaintiff. He would further submit that after purchasing the suit schedule property, the 6th respondent herein has mutated all revenue records in his name and as the 6th respondent herein who is subsequent purchaser, has the every right to claim the right of title over the suit property and defend the case.

12. The learned counsel for the respondents 5 and 6 would submit that as per the resolution of Tamil Nadu Slum Clearance Board, the term



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

of 10 years is relaxed in the subsequent sale deed. Hence, the violation of condition does not arise. Further, the resolution shall be applicable to the subsequent sale deed not to the Sale Deed dated 24.02.2021.

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

14. On perusal of the records, it is seen that in the Written Statement filed by the defendants 1 to 4 before the Trial Court, it reveals that the 1st defendant is the absolute owner of the suit property and she has made payments to the Tamil Nadu Slum Clearance Board not by the appellant/plaintiff. However, the plaintiff averred that he has made the entire payments to the Tamil Nadu Slum Clearance Board and he has further relied upon the document in S.No.11 – the receipt for sale consideration issued by the 1st defendant in favour of the plaintiff. Hence, there is a dispute between the parties with regard to payment of consideration. In the meanwhile, as the 5th defendant has executed sale deed in favour of the 1st defendant, the plaintiff has filed the above Writ petition seeking for direction to cancel the sale deed dated 24.02.2021 executed by the 5th defendant in favour of the 1st defendant, consequently,



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

to execute the sale deed in favour of the plaintiff based on the payment of sale consideration made by him and other documents executed by the 1st defendant in favour of the plaintiff. During the pendency of the aforesaid Second Appeal and Writ petition, the 1st defendant has sold out the suit property in favour of the 6th respondent herein. Vide sale deed dated 15.03.2021. Now, the 6th respondent being the subsequent purchaser of the suit property, claims the right of title over the suit property based on the above Sale Deed executed by the 1st defendant.

15. It is admitted fact based on the submission made by both side counsel that as on date, the Plaintiff is in the possession of the suit property even though the 1st defendant has executed the sale deed in favour of the 6th respondent herein. During the pendency of the second appeal, it is reported that the 1st defendant has died. Further, the plaintiff/appellant has now filed a memo praying to withdraw the prayer of recovery of possession from the defendants as he is alone in possession of the suit property and seeks prayer in the plaint with regard to relief of declaration for title over the suit property before the Civil Court for making the payment of sale consideration to the Tamil Nadu Slum



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

WEB COPY

Clearance Board on behalf of his mother/1st defendant based on the documents executed by his mother. Considering the facts and circumstances of the case and also considering the memo filed by the appellant, this Court permits the appellant to withdraw the prayer of the recovery of possession from the defendants 1 to 4 in the plaint and the appellant is hereby directed to amend the plaint in the suit to that effect.

16. There are so many issues are to be decided in this case over the right of title in the suit property, in the interest of justice, having considered the facts and circumstances of the case and also submissions made by either side, this Court is inclined to set aside the findings of the Courts below and remand back the suit to the Trial Court for disposal in accordance with law after hearing both sides and considering the oral and documentary evidence placed by both sides. The 6th respondent being the subsequent purchaser of the suit property, is given liberty to raise all his objections before the Trial Court by impleading as the defendant in the original suit. Further, the Trial Court is directed to give sufficient opportunities to both parties to place their oral and documentary evidence including the subsequent purchaser ie. N.Nesan who has purchased the



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

suit property from the 1st defendant.

17.The Trial Court is hereby directed to dispose of the suit in the manner known to law within a period of 6 months from the date of receipt of the entire documents. The Registry is directed to send back the entire records related to this case to the Trial Court enabling to proceed with the Trial after issuing notice to the concerned parties.

18.With the aforesaid directions, this Second Appeal is dismissed.
No costs. Consequently, connected miscellaneous petition is closed if any.

10-02-2026

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



WEB COPY



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

SA No. 721 of 2022

To

1. Priya @ Christina Priya
W/o. Joseph Manohar, Plot No.28, D.No.21,
Periyar Nagar, 1st Street, West Velachery,
Chennai-600 088.
2. P. Suresh @ Immanuel
S/o Ponnann, Plot No.28, D.No.21, Periyar Nagar,
1st Street, West Velachery, Chennai 88.
3. P. Sathish @ Peter Rock
S/o Ponnann, Plot No.28, D.No.21, Periyar Nagar,
1st Street, West Velachery, Chennai 88.
4. Tamil Nadu Slum Clearance Board
Rep by Managing Director, No.5, Kamarajar Salai,
Chepauk (Post Box No.157), Chennai- 5.
5. N.Nesan
S/o. Navneetham, No.14/A, 2nd St, Ex Serviceman
Colony, Adambakkam, Chennai 88.

WP No. 25213 of 2021

To

- 1 .The State of Tamil Nadu
Rep by Secretary, Housing and Urban Development,
Fort St.George, Chennai-600 009.

22/25



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

2. The Tamil Nadu Slum Clearance Board

Rep by its Managing Director, No.5, Kamaraj Salai, Chepauk, Chennai-5

3. N,Nesan

S/o.Navaneethan, Res.at No.14/A,2nd street, Ex-service amn colony,
Adambakkam, Chennai-600 088.

4. Priya @ Christina Priya,

W/o. Joseph Manohar, Plot No.28, Door No.21, Periyar Nagar, 1st Street, West
Velachery, Chennai - 600 088.

5. P. Suresh @ Immanuel,

S/o. Ponnann, No.16, Indira Gandhi Nagar, 4th Street,
West Velachery, Chennai - 600 088.

6. P. Sathish @ Peter Rock,

S/o. Ponnann, E3/70, SVS Nagar,
Orathi Village and Post, Maduranthagam,
Chengalpattu - 603 307.



WEB COPY



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

T.V.THAMILSELVI J.

Lbm

**SA No. 721 of 2022 and WP No. 25213 of 2021
AND
CMP No. 14304 of 2022**



WEB COPY



S.A.No. 721 of 2022 and
W.P.No. 25213 of 2021

10-02-2026