



S.A. No. 422 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	14.11.2025
Pronounced on	13.02.2026

CORAM

**THE HONOURABLE MRS. JUSTICE K. GOVINDARAJAN
THILAKAVADI**

S.A.No.422 of 2020

1. Vinodhan Kandhaiah
2. Bhavani Vinodhan
3. Sasikala Kandhaiah
4. Deepamala Arunachalam
5. Manonmoney Kandhaiah

...Appellants

Vs.

1. G. Anandan
2. N. Krishnamurthy
3. S. Palanisamy
4. K. Thirupathi
5. Duraisamy
6. Poochi
7. Ramar
8. Ramachandiran

....Respondents

Prayer: Second Appeal filed under Section 100 CPC, 1908 to set aside the decree and judgment dated 16.03.2020 passed in A.S. No.54 of 2019, on the file of the Principal Subordinate Court, Kallakurichi, confirming the Judgment and decree dated 30.07.2019 passed in O.S. No.73 of 2010, on the file of the District Munsif, Sankarapuram.



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For Appellants : Mr.A. Natarajan, Senior Advocate
for Ms.A. Madhumathi

For Respondents : Ms. L. Parvin Banu for Mr.K.C.Karl Marx
for R1, R2, R5 to R7
R3, R4 and R8 – No appearance

JUDGMENT

This Second Appeal is preferred as against the decree and judgment dated 16.03.2020 passed in A.S. No.54 of 2019, on the file of the Principal Subordinate Court, Kallakurichi, confirming the Judgment and decree dated 30.07.2019 passed in O.S. No.73 of 2010, on the file of the District Munsif, Sankarapuram.

2. For the sake of convenience, the parties are referred to as per their ranking in the trial court.

3. The unsuccessful plaintiffs before both the courts below, have filed the present Second Appeal.



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4. According to the plaintiffs, the 1st plaintiff's father Late V. Kandhaiah had purchased 32.92 acres of patta lands from various vendors including the defendants 5 and 8 mentioned as 'A' schedule property in the suit. He also obtained 'B' memo in respect of tharisu land from the Revenue Department comprised in S.Nos. 42/5, 46/6, 44/2, 46/7 to an extent of 2.73 acres and obtained 'B' memo in favour of the plaintiffs 1 to 5 for the lands in S.Nos.36 to 39, 42, 46 and 47, which is described as 'B' schedule properties in the suit. After purchase, he developed the above properties into fruit farm land in the year 1995, by planting Mangoes, Arecanuts, pepper, cloves, silver oak trees, etc. At the time of his purchase, there was no approach road for the above properties. Thereafter, he formed the approach road and gave employment to the local villagers. The said Kandhaiah died in the year 1998, leaving behind the plaintiffs as his legal heirs. After the demise of Kandhaiah, the plaintiffs are in possession and enjoyment of the suit properties. Thereafter, the 1st plaintiff has leased out the fruit farms in favour of one Mathi for a total lease amount of Rs.30,000/- in the year 2006. While so, the defendants 5 to 8, colluding with the defendants 1 to 4, are claiming that they were forced



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to sell the suit properties for a very meagre sum when they were under the influence of alcohol. The plaintiffs are the absolute owners of the suit 'A' and 'B' schedule properties. Since the defendants are giving problems to the plaintiffs by setting fire to the suit properties and letting animals to graze the commercial crops and plants, the plaintiffs have filed the above suit.

5. The claim of the plaintiffs is resisted by the defendants stating that, the plaintiffs cannot claim ownership to the suit 'A' and 'B' schedule properties, since they are not hill tribes or scheduled tribes. The plaintiffs belong to upper echelons of society having money and muscle power. Moreover, they are not the residents of the Kalvarayan hill areas and it is admitted fact that, the permanent resident of the hill areas, namely the scheduled tribes, are alone entitled to enjoy the lands in the forest and hill areas. The plaintiffs are in illegal possession of more than 90 acres of forest land. The outsiders are prohibited from occupying the revenue tharisu lands in the forest area. While so, the Revenue Officials could not legitimize the possession of the plaintiffs by serving 'B' memos on them. The defendants have brought the matter to the knowledge of the revenue



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authorities in the meeting conveyed on 22.01.2007, in which the revenue authorities have conceded to evict the plaintiffs. Hence, prayed for dismissal of the suit.

6. The trial court, dismissed the suit filed by the plaintiffs, against which the plaintiffs preferred the appeal suit in A.S. No.54/2019. The first appellate court also dismissed the appeal suit. Aggrieved by this, the present Second Appeal is preferred by the plaintiffs.

7.The Second Appeal has been admitted on the following substantial questions of law:

i. Whether the Courts below were right in dismissing the suit for injunction after having found that the plaintiff is in possession of the property on the ground that the properties are classified as tribal lands and possession of a non-tribal person is illegal?

ii. Whether the Courts below were right in concluding that the possession of the B Schedule property cannot be protected since the Government has issued B memo?



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iii. Whether the Courts below were right in relying upon a Government order, which was not produced, in the absence of any evidence to show that the lands in question are covered by the said Government order?

8. Mr.A. Natarajan, learned Senior Advocate, appearing for Ms.A.Madhumathi, the learned counsel on record for the appellants / plaintiffs would submit that, the suit filed by the plaintiffs is only for bare injunction. While so, the courts below erred in probing about the title of the plaintiffs and erroneously concluded that, the sale deeds executed in favour of Kandhaiah are illegal. Even a trespasser could be evicted only by due process of law. The alleged Board Standing order, referred by the defendants, were not marked. The courts below failed to consider the documents marked as Ex.A11 to A39 relied by the plaintiffs to establish their possession in the suit properties. The defendants do not have any title or possession in the suit properties. The defendants are not competent to raise any question about the title and possession of the plaintiffs. The judgments referred by the courts below are in respect of Government lands assigned to Harijans and the same do not apply to hill tribes. If the lands purchased by Kandhaiah are governed by Hill Tribes Act, then the



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Revenue officials would not have transferred patta in their favour and the Registration Department would not have registered the sale deeds. He would submit that since the suit was filed only for bare injunction, the courts have no jurisdiction to decide anything on title of the suit property. He would further contend that, the courts below have erroneously interpreted the Government Orders and wrongly concluded that the plaintiffs are not in lawful possession of the suit properties. A bare reading of the Standing Orders relied by the courts below would clearly demonstrate that the sale effected by the plaintiffs are not void *per se* especially, the lands acquired by the plaintiffs are not 'assigned lands' and the vendors are not the tribal people prohibiting conveyance of their properties. The courts below erred in dismissing the suit filed by the plaintiffs by misinterpreting the Standing Orders, warrants interference by this Court. To support her contentions, she has relied on the following judgments:

- 1. Sunkamma Vs. S. Pushparaj reported in 2018 (12) SCC 647***
- 2. S. Selvam vs. Mathanlal Chawla reported in 2015 (1) MWN (Civil) 777***
- 3. Anathula Sudhakar Vs. P. Buchi Reddy (dead) reported in***



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2008 4 SCC 594

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4. Judgment of this Court dated 06.07.2022 in W.A.

No.1834/2018 (Blessing Youth Mission vs. State of Tamil Nadu)

9. On the other hand, Ms. L. Parvin Banu, the learned counsel for the respondents 1, 2 and 5 to 7 would submit that, the relief of permanent injunction can be granted only if the plaintiffs proves their title over the disputed property. In the present case, the title of the plaintiffs in the suit properties itself is in dispute and therefore, a bare injunction suit is not maintainable. He would further contend that, the Constitution of India and the laws made thereunder treat tribals and tribal areas separately wherever needed. They need the protection of laws as they are gullible and fall prey to the tactics of unscrupulous people, and are susceptible to exploitation on account of their innocence, poverty and backwardness extending over centuries. The courts below have considered the above facts in a proper perspective manner, dismissed the suit filed by the plaintiffs, warrants any interference by this Court.



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10. Heard on both sides. Records perused.

11. Firstly, it has to be seen whether the lands in question are covered by any Government Order of Tamil Nadu. The specific contention of the appellants is that, the only ground on which the courts below have rendered their respective findings is the prohibition imposed for alienation of properties by tribal people to non tribal people in the villages notified in G.O.561 dated 14.03.1979 in which the village of Arampoondi has been included, as contemplated under the Board Standing Orders 15.40 and that it is clearly evident from the text of the order of the trial court and the first appeal court that neither, this Government Order nor the Board Standing Order was produced and marked during the trial. The plaintiffs were not given any opportunity to defend themselves against the admissibility of such documents or its reliance. Therefore, placing reliance upon such documents by the courts below suffers serious legal infirmities and violative of the principles of natural justice. A bare perusal of the above Government Order and Board Standing Orders, it is explicitly clear that the Standing Order will apply only to assigned lands and not for patta lands, lying in the same notified village and owned by tribal people, who are free



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to convey their lands even to outsiders by tribal people, not belonging to their community. Further, the Government Order in G.O. 561 dated 14.03.1979 reveals that, there was only a deliberation to introduce a legislation for prohibition on alienation patta lands. As such, the said Government Order does not impose any prohibition. Therefore, the reliance placed on the Government Order by the courts below is unsustainable. It is further contended that, assigned lands are different from patta lands and that with regard to the patta lands owned by the tribals at present, there is no law prohibiting alienation of tribal lands to non tribals.

12. On this context, it is relevant to extract the text of the relevant B.S.O. 15.40, as hereunder:

“(40) Hill Tribes : - Conditional Assignment:- In the following cases the assignment of land to Malaya & or Sholagas, as the case may be, shall be subject to the conditions that land shall not be transferred by the assignees of any person outside the class to which they belong without the express sanction of the Divisional Officer, and that, if the land is transferred without such sanction or is attached and sold by any legal process, it



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shall be liable to resumption by the Divisional Officer without payment of any compensation whatever”.

Hence, it is made clear that lands assigned to the tribes cannot be transferred without sanction from Divisional Officer.

13. In Tamil Nadu, the purchase of designated tribal lands (often held under conditional patta, ryotwari settlements, or notified hill areas) by non tribals is generally considered invalid or void, particularly when such transfers violate restrictions on alienation. Therefore, there is no difference between assigned land and patta land. The courts have consistently held that lands assigned to Scheduled Tribes cannot be alienated to non tribals. In fact, the tribes in the Kalrayan hills were issued settlement pattas that explicitly prohibited the transfer of lands to non tribals. Courts have directed the initiation of action for the resumption of such lands sold to non tribals. Admittedly, many lands occupied by tribal communities were granted with explicit restrictions on transfer to outsiders. The Tamil Nadu Revenue Statutory Standing Orders (BSO 15.40) provide for the resumption of lands that have been sold to non tribals in violation of conditions. Moreover, a tribal is considered to be incapable of protecting



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his own immovable property. Therefore, acquisition of title in favour of a non tribal by invoking doctrine of adverse possession over the immovable property belonging to a tribal in a tribal area is strictly prohibited. Further, any transfer of immovable property by a member of Scheduled Tribe to a non tribal without permission of competent authority is invalid. Therefore the wrongful possession of the plaintiffs cannot be legalized. Moreover, the facts in S.A. No.424/2016 is different from the facts of the present case and therefore, the same is not applicable to the present case. Further, the issuance of 'B' memo for the 'B' schedule property do not confer any title to the plaintiffs and the same cannot be protected. The Government Order and the Board's Standing Order 15.40 clearly shows that the lands in question are covered. Since the plaintiffs are not in lawful possession over the suit properties and the revenue authorities have conceded to evict the plaintiffs within possible time, the possession of the plaintiffs in the suit properties cannot be protected. The courts below have rightly dismissed the suit filed by the plaintiffs, which warrants any interference by this Court. All the substantial questions of law are answered against the appellants.



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14. In the result,

- i. the Second Appeal is dismissed. No costs.
- ii. The decree and judgment dated 16.03.2020 passed in A.S. No.54 of 2019, on the file of the Principal Subordinate Court, Kallakurichi, confirming the Judgment and decree dated 30.07.2019 passed in O.S. No.73 of 2010, on the file of the District Munsif, Sankarapuram, is upheld.

13.02.2026

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
bga

To

1. The Principal Subordinate Judge, Kallakurichi
2. The District Munsif, Sankarapuram
3. The Section Officer, VR Section, High Court, Madras.



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K.GOVINDARAJAN THILAKAVADI,J.
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Pre delivery judgment in
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