



S.A.No.175 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A.No.175 of 2020
and C.M.P.No.3537 of 2020

Subramanian

... Appellant

vs.

Selvaraj (Died)

1.Saroja (Died)

2.Arul Jothi

3.Manju

4.Gunavathi

5.Karpagam

6.Kesavardhini

... Respondents

(Memo Recorded. R1-Died, RR2 to 6 already on record are recorded as LRs of the Deceased R1 Vide Court Order dated 11.06.2025 made in S.A.No.175/2020 and C.M.P.No.3537/2020)

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the Judgment and Decree dated 06.09.2018 passed in A.S.No.59 of 2017, on the file of I Additional Subordinate Court, Villupuram confirming the Judgment and Decree dated 14.03.2017 passed in O.S.No.82 of 2008 on the file of Principal District Munsif Court, Villupuram.



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For Appellant : Mr.T.S.Baskaran

For R2 to R6 : Mr.V.Seshachari

For R1 : Died (Steps Taken)

J U D G M E N T

The unsuccessful plaintiff in the suit is the appellant.

2. The plaintiff filed a suit for declaration of title and permanent injunction restraining the defendants from interfering with his peaceful possession and enjoyment of the suit properties. The deceased defendant-Selvaraj filed counter claim seeking declaration of title, recovery of possession and also for recovery of custody of original title documents from the plaintiff. The Trial Court dismissed the suit filed by the plaintiff and decreed the counter claim as prayed for. Aggrieved by the same, the plaintiff filed an appeal and the same was dismissed by the First Appellate Court. Aggrieved by the concurrent finding, the plaintiff has come before this Court.



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3. According to the plaintiff, the suit property originally belonged to the deceased defendant-Selvaraj, his brother. He sold the suit properties to the plaintiff on 10.12.1980 under the unregistered Sale Deed and handed over possession. From that date onwards, the plaintiff claims to have been in possession and enjoyment of the suit properties. It was also stated that Patta and other revenue documents issued in the name of the plaintiff. Later, the relationship between the plaintiff and deceased defendant-Selvaraj got strained and the defendant attempted to interfere with possession of the plaintiff. Hence, the above said suit was filed seeking declaration of title and permanent injunction.

4. The deceased defendant-Selvaraj field a written statement and denied the execution of unregistered Sale Deed relied on by the plaintiff. It was the specific case of the deceased defendant-Selvaraj that the unregistered Sale Deed was a forged one and created for got the properties.

5. As far as patta and other revenue documents produced by the plaintiff are concerned, the deceased defendant-Selvaraj pleaded that those revenue documents were recent documents and hence, it would not confer any right to the plaintiff over the suit properties. It was also claimed by the



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defendant that he purchased the property under two different Sale Deeds dated 25.04.1980 and 20.09.1980 for the valuable consideration in his own name and there was no necessity for him to convey the suit properties to the plaintiff within eight months. It was also claimed by the defendant that the plaintiff trespassed into the suit properties and hence, he approached the Mediator and during mediation, the title documents were handed over to the Mediators. The plaintiff in the guise of verifying the documents got possession of the title documents of the defendant from the Mediators. On these pleadings, the deceased defendant-Selvaraj filed counter claim and sought for declaration of title, recovery of possession of the suit properties and also recovery of custody of the title deeds in the hands of the plaintiff.

6. The counter claim filed by the defendant was resisted by the plaintiff by filing a reply statement by relying on the unregistered Sale Deed dated 10.12.1980.

7. The Trial Court based on the pleadings of the parties, formulated the following issues for consideration:-

- 1) வழக்கு சொத்து குறித்து வாதி கோரியுள்ளபடி விளம்புகை பரிகாரம் வழங்கக்கூடியதா?



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- 2) வாதி கோரியுள்ளபடி நிரந்தர உறுத்துக்கட்டளை பரிகாரம் வழங்கக்கூடியதா?
- 3) வழக்கில் கிடைக்கக்கூடிய இதர பரிகாரம் என்ன?

8. Before the Trial Court, the plaintiff was examined as PW.1 and one Mani, who said to be the Scribe of Ex.A1 was examined as PW.2. On behalf of the plaintiff, 8 documents were marked as Exs.A1 to A8. The defendant was examined as DW.1 and he has not marked any document on his side.

9. The Trial Court on appreciation of oral and documentary evidence available on record, came to the conclusion that the plaintiff failed to establish his title over the suit properties and dismissed the suit. The counter claim filed by the defendant was decreed as prayed for. Aggrieved by the same, the plaintiff preferred an appeal in A.S.No.59 of 2017 on the file of the I Additional Subordinate Court, Villupuram and the First Appellate Court affirmed the finding of the Trial Court and dismissed the appeal. Aggrieved by the concurrent finding, the plaintiff has come before this Court.

10. The learned counsel appearing for the appellant by taking this Court to the evidence of PW.1, vehemently contended that the defendant clearly admitted the possession of the plaintiff from the year 1980, therefore,



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the Trial Court committed serious error in dismissing the suit filed by the plaintiff. The learned counsel also submits that the patta and other revenue documents stands in the name of the plaintiff and hence, the trial Court ought to have come to the conclusion that the plaintiff has been enjoying the suit properties for several years and decreed the suit.

11. The plaintiff seeks declaration of title and recovery of possession. Therefore, it is incumbent on him to prove his title over the suit properties. In order to claim title over the suit properties, the plaintiff relying on Ex.A1-unregistered Sale Deed allegedly executed by the defendant.

12. Firstly, the unregistered Sale Deed will not convey any title to the plaintiff regarding suit properties. A perusal of the Ex.A1-unregistered Sale Deed would indicate that the consideration for the suit properties was mentioned as Rs.16,500/-. Therefore, it is clear that at the relevant point of time, the suit properties were worth about more than Rs.100/-. Therefore, any conveyance of the same shall be only by way of registered document. In such circumstances, Ex.A1-unregistered Sale Deed relied on by the plaintiff will not help him to prove his title over the suit properties.



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13. The defendant-Selvaraj specifically denied the execution of Ex.A1-Unregistered Sale Deed. In order to prove Ex.A1-unregistered Sale Deed, the plaintiff has not examined any attesor to the document. The plaintiff only examined one Mani, who is said to be the Scribe of the said document. If the Sale Deed is a registered one, then it need not be proved by calling an Attestor. In the case on hand, the Sale Deed is unregistered one. In such circumstances, in order to prove the execution of unregistered Sale Deed, the plaintiff should have examined the Attestor to prove the due execution. In the absence of evidence of Attestor to the document, based on interested testimony of PW.1 and the evidence of Scribe alone, we cannot come to the conclusion that the due execution of Ex.A1 was proved. Even assuming that the due execution of Ex.A1 was proved, the unregistered document will not convey any title to the plaintiff.

14. Though the plaintiff claimed that he has been in possession and enjoyment of the suit property from the year 1980 onwards, the plaintiff has not produced any document to prove his long possession over the suit properties. It is clearly observed by the First Appellate Court that the Ex.A4-Patta was dated 25.01.2008 and the same came into existence after issuance



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notice by the defendant alleging trespassed into the suit properties by the plaintiff on 18.01.2008. Since the Ex.A4-Patta and Ex.A5-Adangal came into existence subsequent to exchange of notice by the parties, the same will not help the plaintiff to prove his alleged possession.

15. Thus, revenue documents proved by plaintiff would not help him to prove his long possession over the suit properties. In the absence of any evidence to show that the plaintiff has been in possession and enjoyment of the suit properties for more than 12 years by excluding real owner namely the defendant-Selvaraj, the plaintiff is not entitled to claim declaration of title based on adverse title. The conclusion reached by both the Courts below in this regard requires no interference by this Court.

16. Admittedly, the defendant is the owner of the properties. When it is held that Ex.A1-unregistered Sale Deed will not convey any title to the plaintiff, as a owner of the properties the defendant is entitled to recovery of possession from the plaintiff. Therefore, both the Courts below are justified in declaring title of the defendant and ordering recovery of possession. As a real owner of the properties, the defendant is also entitled to custody of the title documents. Therefore, the defendant is also entitled to recovery of title



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documents from the plaintiff.

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17. In view of the discussion made earlier, the conclusion reached by the Trial Court as well as First Appellate Court in decreeing the counter claim filed by the defendant requires no interference by this Court. Finding no substantial question of law arising for consideration in this second appeal, the same is dismissed.

In Nutshell:-

- (i) The Second Appeal stands dismissed.
- (ii) In the facts and circumstances of the case, there will be no order as to costs.
- (iii) Consequently, the connected civil miscellaneous petition is closed.

09.03.2026

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

1.The I Additional Subordinate Court,
Villupuram.

9/11



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2.The Principal District Munsif Court,
Villupuram.

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