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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 30.09.2026

Pronounced on : 20.10.2026

Case QR

CORAM

THE HON'BLE MR.JUSTICE E.MANOHARAN

SA No. 937 of 2016
and CMP.No.18902 of 2016

CNR: {HCMA010891852016}

1. Chinnaranga Naicker
   S/o Ranga Naicker,
   Vradithottam, Old Kothukadu,
   Puthukalayanoor Village,
   Sathyamangalam Tk,
   Erode Dist.

2. N.Asokan
   S/o Nanchan Naicker,
   2 To 5 are Res At Mariamman Koil St,
   Old Kothukadu, Puthukalayanoor Village,
   Sathyamangalam Tk, Erode

3. Rangasamy
   S/o Mara Naicker Mariamman Koil St,
   Old Kothukadu, Puthukalayanoor Village,
   Sathyamangalam Tk, Erode

4. Raja
   S/o Ramasamy, Mariamman Koil St,
   Old Kothukadu, Puthukalayanoor Village,
   Sathyamangalam Tk, Erode

5. Palanisamy
   S/o Mara Naicker Mariamman Koil St,
   Old Kothukadu, Puthukalayanoor Village,
   Sathyamangalam Tk, Erode

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..Appellant(s)

Vs

Vasanthamani
W/o Late Palaniyappan, Mariamman Koil St,
Old Kothukadu, Puthukalayanoor Village,
Sathyamangalam Tk, Erode

..Respondent(s)

Prayer: Second Appeal filed to set aside the judgment and decree passed in A.S. No.45/2015 dated 08.08.2016 passed by the learned Sub Judge, Sathyamangalam reversing the judgment and decree passed in O.S.No.63 of 2012 dated 01.04.2015 passed by the learned DMC, Sathyamangalam and allow the Second Appeal.

For Appellant(s): Mr.S.Parthasarathy

For Respondent(s): Mr.I.C.Vasudevan

JUDGMENT

Aggrieved by the judgment and decree passed by the learned Sub-ordinate Judge, Sathyamangalam in A.S.No.45 of 2015 dated 08.08.2016 by reversing the judgment and decree passed by the learned District Munsif, Sathyamangalam in O.S.No.63 of 2012 dated 01.04.2015, the present Second Appeal has been filed.

FACTUAL BACKGROUND:

2. The defendants are the Appellants in this Second Appeal. The gist and kernel of the case which leads to the filing of the Second Appeal are as follows:

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2.1. The Respondent herein is the Plaintiff in the Suit, O.S.No.63 of 2012. It is the case of the Plaintiff that the suit property is a vacant site which her husband, Late Thiru Palaniappan, acquired under a registered sale deed dated 07.09.1960 (Doc. No.2330 of 1960, Sub-Registrar's Office, Sathyamangalam). To the north of the suit property lies another property, conveyed to Thiru Palaniappan under another sale deed dated 30.09.1959, on which he constructed a house and in which the family resided. Thiru Palaniappan died on 28.10.2006, leaving behind the plaintiff and their children, namely Ms. Suvarnalatha, Ms. Rukmani and Mr. Udayakumar, as his legal heirs. The children are married and reside separately, and the plaintiff is therefore in exclusive possession of the plaint schedule property. The plaintiff averred that the defendants are strangers to the plaint schedule property and they taking advantage of the fact that her husband's name had not been mutated in the Government records raised a claim that the property is *poramboke* belonging to the Government and ought to be assigned to them and in the year 2012, the Defendants attempted to trespass into the suit property and lay a road, which the plaintiff thwarted with the help of the neighbours. Contending that the defendants are influential persons in the locality and that she had no other efficacious remedy, the plaintiff instituted the suit for the following reliefs:

> *i) To issue an order of permanent injunction restraining the defendants, their men or persons claiming under them from entering the plaint schedule property or in any manner*

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interfering with the plaintiff's possession and enjoyment of it;

ii) To direct the defendants to pay the costs of the suit to the plaintiff; and

iii) To grant such other reliefs as the Hon'ble Court deems fit and proper.

2.2. The defendants resisted the suit by filing a written statement, denying the plaint averments. They contended that no such property had been acquired by the plaintiff's husband and that the land is Government *Natham Poramboke* in Survey No.319/4 and is classified in the Government records as '*Sarkar Poramboke*'; and that the document relied on by the plaintiff relates to a different property and has been set up only to cloak the encroachment by the Plaintiff on Government land. They further pleaded that the suit property stands in the name of Thiru Kaliyanna Udayar and that the suit is bad for non-joinder of all the legal heirs. They also claimed that the property is used by the local villagers during temple festivals, from the Vinayagar Temple and Mariamman Temple situated close to the suit property. On these grounds, they prayed for dismissal of the suit.

2.3. The trial Court had framed the following questions of law for trial:

i)Whether the plaintiff is in possession and enjoyment of the suit property?

ii)Whether the plaintiff is entitled for the relief of permanent injunction as prayed for?

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iii)To what other reliefs, the plaintiff is entitled to?

2.4. In support of her case, the plaintiff examined herself as P.W.1 and one Mr. Iyya Gounder as P.W.2, and marked Exs.A1 to A3. On the side of the defendants, one official witness, Mr. Umamaheswaran (Deputy Tahsildar, Sathyamangalam) was examined as D.W.1, and no documents were marked. The Commissioner's report and plan were marked as Court exhibits, Ex.C1 and Ex.C2.

2.5. By judgment and decree dated 01.04.2015 in O.S. No. 43 of 2012, the Trial Court dismissed the suit with costs. The Trial Court held that the documentary evidence adduced by the plaintiff was insufficient to establish her possession of the suit schedule property, and that she ought to have produced revenue records such as patta, chitta, adangal and tax receipts in proof of the same. The Trial Court further observed that the plaintiff had not furnished complete particulars of the suit schedule property, including the Survey Number, and, on the strength of that omission, drew an adverse inference *against her. As regards Ex.A1, the Trial Court noted that the document did notstand in the name of the plaintiff's husband but in the name of one Thiru.* Kaliyanna Udayar, and that the plaintiff had not pleaded or proved that her husband was the son, or the sole son, of the said Kaliyanna Udayar, so as to establish any devolution of title or right. The Trial Court also drew an adverse

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inference from the fact that the plaintiff had not obtained patta in respect of the suit schedule property for a period of nearly fifty years. The Trial Court placed reliance on Exs.C1 and C2, and took note of the oral testimony of DW1, the Zonal Deputy Tahsildar, Sathyamangalam, who deposed that Survey No. 319/4 is a *poramboke* land classified as a Government site, and that, during his earlier inspection, he had found the plaintiff to be in unauthorised occupation of the said site. On the strength of the above findings, the Trial Court held that the suit property is not patta land and that the plaintiff was not in lawful possession thereof, and, in consequence, declined the relief of permanent injunction.

2.6. Aggrieved against the same, the plaintiff preferred the First Appeal vide A.S.No.45 of 2015 before the Sub-ordinate Judge, Sathyamangalam.

2.7. Before the First Appellate Court, the plaintiff contended that the Trial Court had disregarded the oral and documentary evidence adduced on her side and had not answered the issues correctly, since the suit was based on a registered sale deed and the description of the property therein. She contended that the defendants had produced no revenue records to establish that the suit property is *Sarkar Poramboke*, and that the trial Court had dismissed the suit relaying on the oral testimony of D.W.1, which was unsupported by any material or revenue record. It was further contended by the plaintiff that she claims title as the legal heir of her late husband, who, in turn, derived title

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through his father, whose name admittedly finds place in the sale deed and that the Commissioner's report records features such as coconut trees, a bathroom and a manure pit belonging to her. It was thus urged that the trial Court had failed to appreciate the evidence properly, and the plaintiff prayed that the judgment and decree in O.S.No.63 of 2012 be set aside and the First Appeal allowed.

2.8. On the basis of the materials on record, the First Appellate Court framed the following points for consideration:

> *1.Whether the plaintiff has established the possession and enjoyment over the suit property before the trial Court?*
>
> *2.Whether this appeal can be allowed?*

2.9. After considering the materials and the written arguments, the First Appellate Court held that Late Kaliyanna Udayar is the father of the plaintiff's husband, a relationship not denied by the defendants and proved by Ex. A3 (the death certificate of the plaintiff's husband). It observed that the description of the property on the south and east tallied with Ex.C2, the Commissioner's plan, and held that there was no necessity to use the suit property for temple functions, and that no person other than the plaintiff was in a position to take possession and enjoy the suit property. It further noted that D.W.1, the Zonal Deputy Tahsildar, Sathyamangalam, had not produced any revenue plan or

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record to show that the suit property is classified as '*Sarkar Poramboke*'. Applying Sections 101 to 103 of the Indian Evidence Act, 1872, the First Appellate Court held that the plaintiff had proved her possession and enjoyment of the suit property and that the defendants had failed to establish that it belongs to the Government. Accordingly, on Point No.1, it held that the plaintiff had proved her possession through the oral evidence of P.W.1 and P.W.2 and the documentary evidence of Ex. A1, Ex.C1 and Ex.C2. On Point No.2, it allowed the appeal in the interest of justice, set aside the judgment and decree of the learned District Munsif in O.S.No.63 of 2012 dated 01.04.2015, decreed the suit and granted the relief of permanent injunction with costs.

3. Aggrieved by the judgment and decree dated 08.08.2016 passed by the First Appellate Court in A.S.No.45 of 2015, the defendants are before this Court in the present Second Appeal.

SUBSTANTIAL QUESTION OF LAW:

4. This Second Appeal was admitted vide order dated 23.12.2016 and the following substantial questions of law were framed for consideration:

> *i) Is not the Lower Appellate Court committed an error of law in fixing the onus on the defendants to prove his case that the suit property is the Government Poramboke land despite the evidence of the Court witness?*

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ii) Is not the Lower Appellate Court committed an error of law in decreeing the suit where the plaintiff has failed to prove her title?

DISCUSSION:

5. Heard the Learned Counsel for the Appellants and the Learned Counsel for the Respondent and perused the materials available on record and the findings rendered by both the Courts below.

6. The plaintiff instituted the suit for the relief of permanent injunction to restrain the defendants from interfering with her possession and enjoyment of the suit property. Under Section 101 of the Indian Evidence Act, 1872, the burden of proof lies on the plaintiff, who must establish her lawful title to, or possession of, the suit property in order to obtain the relief of permanent injunction. To discharge that burden, the plaintiff produced Exs.A1 and A3. Ex. A1 is the registered sale deed under which Thiru Kaliyanna Udayar purchased the suit property, dated 30.09.1959 (registered as Doc. No.2431 on the file of Sub-Registrar's Office, Sathyamangalam). It is also noteworthy that the written statement filed by the defendants themselves acknowledges that the name of Thiru Kaliyanna Udayar finds place in the sale deed relating to the suit property.

7. Ex. A3 is the death certificate of the plaintiff's husband, Thiru

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Palaniappan, which records his father's name as Thiru Kaliyanna Udayar. Both documents were taken on record and their authenticity has not been questioned. Ex .A1 is a registered sale deed, the genuineness and validity of which has never been called into question. A registered document carries with it a presumption of due execution and validity, and, in the absence of any rebuttal, Ex.A1 is admissible evidence of the plaintiff's right and interest in the suit schedule property, which is sufficient to entitle her to maintain the suit for the relief sought. Being a document executed in the year 1959 and therefore more than thirty years old, it carries the presumption of genuineness under Section 90 of the Indian Evidence Act, 1872. The genuineness of the documentary evidence adduced by the plaintiff cannot be discarded solely on the strength of the bare oral testimony of DW1, particularly when the same is unsupported by any contemporaneous revenue record or other documentary evidence, and when the legality of the said documents, adduced by the plaintiff, had not been specifically denied or rebutted. The Hon'ble Supreme Court, in ***Prem Singh and Others v. Birbal and Others, (2006) 5 SCC 353***, has held that:

> *"There is a presumption that a registered document is validly executed. A registered document, therefore, prima facie would be valid in law. The onus of proof, thus, would be on a person who leads evidence to rebut the presumption."*

In the instant case, defendant has not been able to rebut the said presumption.

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8. The Courts below have taken divergent views on the evidentiary use of the Commissioner's Report and Plan (Exs.C1 and C2). The Trial Court treated the documents as the yardstick against which the plaintiff was required to prove her occupation of the property as described therein. The First Appellate Court, however, found that the southern and eastern boundaries of the suit schedule property, as set out by the plaintiff, corresponded with those delineated in Ex.C2, and it drew from this correspondence a finding as to the identity of the property in the plaintiff's favour. The Report and Plan of the Commissioner can, at best, assist the Court in ascertaining the identity, boundaries and physical features of the suit schedule property and they cannot be relied upon to adjudicate the questions of title or possession, which must be determined on the basis of legally admissible evidence adduced by the parties.

9. Nevertheless, the plaintiff has asserted continuous possession of the suit property. The averments in the written statement, read as a whole, themselves proceed on the footing that the plaintiff is in occupation of the suit property. Significantly, D.W.1 too deposed that the plaintiff is in occupation of the property, although he characterized her as an encroacher. The said assertion of the plaintiff stands corroborated by the very statement of the defendant and the testimony of his witness, who are themselves contesting her claim/right. The admission from the adversary, being against the interest of the party making it, carries considerable evidentiary weight. The plaintiff's possession is thus

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established, and the First Appellate Court was justified in holding that she had made out a sufficient case for the grant of permanent injunction.

10. Once the plaintiff had discharged the initial burden by establishing a presumption of valid title and possession, the onus shifted to the defendants to demonstrate that the evidence adduced by the plaintiff was unacceptable and that her claim could not be sustained. In this regard, it is apposite to refer to the decision of the Hon'ble Supreme Court in ***Anil Rishi v. Gurbaksh Singh, AIR 2006 SC 1971***, wherein the following passage from *R.V.E. Venkatachala Gounder v. Arulmigu Viswesaraswami & V.P. Temple*, JT 2004 (6) SC 442, was extracted:

> *"In R.V.E. Venkatachala Gounder v. Arulmigu Viswesaraswami & V.P. Temple and Anr. [JT 2004 (6) SC 442], the law is stated in the following terms:*
>
> *"29. In a suit for recovery of possession based on title it is for the plaintiff to prove his title and satisfy the court that he, in law, is entitled to dispossess the defendant from his possession over the suit property and for the possession to be restored to him. However, as held in A. Raghavamma v. A. Chenchamma there is an essential distinction between burden of proof and onus of proof: burden of proof lies upon a person who has to prove the fact and which never shifts. Onus of proof shifts. Such a shifting of onus is a continuous process in the evaluation of evidence. In our opinion, in a suit for possession based on title once the plaintiff has been able to create a high degree of probability so as to shift the onus on the*

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defendant it is for the defendant to discharge his onus and in the absence thereof the burden of proof lying on the plaintiff shall be held to have been discharged so as to amount to proof of the plaintiff's title."'

11. It is curious that, although the entire defence is that the plaintiff is in occupation of Government land, the defendants have produced no valid evidence or document in support of their contentions and have relied solely on the oral testimony of D.W.1. In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court in ***Gopal Krishnaji Ketkar vs Mohammed Haji Latif & others [1968 SCC Online Sc 63]***, wherein the court has observed as follows:

> *"Even if the burden of proof does not lie on a party the Court may draw an adverse inference if he withholds important documents in his possession which can throw light on the facts at issue. It is not, in our opinion, a sound practice for those desiring to rely upon a certain state of facts to withhold from the Court the best evidence which is in their possession which could throw light upon the issues in controversy and to rely upon the abstract doctrine of onus of proof. In Murugesam Pillai v. Manickavasaka Pandara1 Lord Shaw observed as follows:*
>
> *"A practice has grown up in Indian procedure of those in possession of important documents or information lying by,*

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trusting to the abstract doctrine of the onus of proof, and failing, accordingly, to furnish to the Courts the best material for its decision. With regard to third parties, this may be right enough — they have no responsibility for the conduct of the suit; but with regard to the parties to the suit it is, in Their Lordships' opinion, an inversion of sound practice for those desiring to rely upon a certain state of facts to withhold from the Court the written evidence in their possession which would throw light upon the proposition.""

Therefore, by failing to bring forth the relevant revenue registers and entries which could have shed light on the core issues in controversy, the defendants have failed to establish their defence and substantiate the allegations raised by them against the plaintiff, of her being an encroacher. Consequently, this calculated omission completely justifies and mandates the drawing of an adverse inference against them under Section 114 (g) of the Indian Evidence Act, 1872 and it must be legally presumed that had such best evidence been produced, it would have run entirely counter to their defence and exposed the falsity of their claims.

12. The trial Court, on the other hand, brushed aside the sale deed and the death certificate and rejected the plaintiff's claim to title on the ground that she had not produced revenue records such as *chitta* or *adangal*. As observed above,

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Exs.A1 and A3 carry a presumption of genuineness and could not have been discarded in such a cavalier manner. The mere non-issuance of patta in favour of the plaintiff does not, by itself, warrant an inference that she has no title to the suit schedule property. A patta is essentially a revenue record and not a document of title and neither creates nor extinguishes title. Title has to be determined on the strength of legally admissible instruments of title, such as the registered sale deed (Ex.A1). The Trial Court was therefore not justified in drawing an adverse inference against the plaintiff on account of the absence of patta.

13. It is, moreover, a well-settled proposition that title to immovable property cannot be determined on the basis of entries in revenue records. In ***Sawarni (Smt.) v. Inder Kaur- [(1996) 6 SCC 223]***, the Supreme Court held that mutation of a property in the revenue records neither creates nor extinguishes title, nor does it have any presumptive value on the title. Likewise, in ***Narasamma and Others. Vs. State of Karnataka and Others: [(2009) 5 SCC 591],*** the Supreme Court reiterated the above position, observing that entries in the revenue records cannot create any title in respect of the land in dispute.

14. This proposition applies with equal force where the State is the party asserting title. A classification or description of land as “poramboke” in the revenue accounts is an administrative entry. It does not, without more, establish

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that the land is vested in the Government. This Court in ***N.S. Kuppuswamy Odayar and another v. Panchayat Narthangudi and Others [1971 (1) MLJ 1990,*** *dated 13.06.1970]* has remarked that the mere fact that a particular piece of land has been classified as poramboke, in the resettlement register does not, by itself, establish title in the Government. In ***T. K. Radhakrishnan Vs. State of Kerala*** *[RSA No.185 of 2020, Order dated 02.09.2021]*, the High Court of Kerala at Ernakulam observed that a mere entry of a property in the Asset Register cannot be relied upon to prove that it is a public pathway, unless the said land was dedicated by way of an application to the Government or local authority. The Court held that such entries do not confer title over the property on the panchayat and this view was taken by the referring to the judgment of the Division Bench of the Kerala High Court in ***Roy Abraham Vs. State of Kerala [2021 (4) KHC 520 (DB)]***. The State therefore cannot rest its case on the poramboke entry alone. It must prove its title by legally admissible evidence, such as the original settlement or inam records, the nature of the classification, any statutory vesting, or an assignment. To compound matters for the defendants, their entire defense rests solely on the oral testimony of DW1 that Survey No. 319/4 is classified as a Government site. Such bare oral testimony, unsupported by any documentary evidence, cannot by any stretch of imagination establish the Government's title to the suit schedule property, nor can it negate the plaintiff's possession thereof.

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15. Therefore, the plaintiff having established, through Exs.A1 and A3 and also through the admissions in the written statement and the deposition of D.W.1, that she has title, or at the least a valid presumption of title, and is in possession of the suit property, the First Appellate Court committed no error in shifting the onus on to the defendants to rebut the plaintiff's case and to show that her claim and evidence are unsustainable. The defendants have failed to discharge that onus convincingly.

16. Before concluding, it is necessary to note the following. The learned Counsel for the plaintiff has contended that the suit schedule property is classified as *Natham Poramboke*. The defendants, in their Written Statement, ave described the suit schedule property as Government Natham land, but have also referred to it as *Sarkar Poramboke*. The character and legal consequences of these two classifications are distinct. Since neither party has produced any revenue records before this Court to establish the classification of the suit schedule property, this Court therefore refrains from expressing any opinion on the point, and the question is left open to be decided on the relevant facts and evidence before the appropriate forum. It must, however, be borne in mind that lands classified as *Natham Poramboke* and in occupation of the person claiming them will fall within the ratio laid down by the Full Bench of this Court, by majority, in ***Kannan @ Kamatchi (Died) and Nallasivam v. The District Collector*, W.P.(MD) No. 19720 of 2017** and connected writ petitions, decided

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on 06.03.2026, reported in ***2026 (2) CTC 257***.

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CONCLUSION:

17. In light of the above discussions, this Court holds that insofar as the substantial question No:1 is concerned, the same is answered in favour of the plaintiff/Respondent to that the Lower Appellate Court did not err in fixing the onus on the defendants/Appellant since the plaintiff has shown a presumption of title and possession and even as per the statement of DW1, the plaintiff is in occupation of the suit property and therefore, she is entitled to the relief of permanent injunction.

18. Insofar as the suit, the second substantial question of law No: 2 is concerned, the same is also answered in favour of the plaintiff, the Lower Appellate Court did not commit any error as the plaintiff has shown sufficient evidence to claim title over the property and seek the prayer sought for in the original suit in O.S.No.63 of 2012.

19. With the above reasonings, this Court holds that the judgment passed by the Lower Appellate Court in A.S.No.45 of 2015 dated 08.08.2016 warrants no interference and therefore, the plaintiff is entitled to the relief sought for in O.S.No.63 of 2012.

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20. In the result, the Second Appeal stands dismissed. Consequently, connected Miscellaneous Petition is closed.

20.11.2026

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

DP

To

1. The Sub Court, Sathyamangalam.

2.The District Munsif Court, Sathyamangalam.

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E.MANOHARAN, J.

DP

judgment made in
SA No. 937 of 2016

20.11.2026

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