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CMP No. 10756 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-04-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CMP Nos. 10756 and 9318 of 2026

in

AS No. 449 of 2026

1. D. Shanmugam

2. S.Shanthi

3. S.Dharani

4. S.Dhayanandan

..Appellant(s)

Vs

1. V.Ponnusamy

2. S.Selvaraj

3. S.Shanmugam

..Respondent(s)

C.M.P.No.9318 of 2026

1. D.Shanmugam

2. S.Shanthi

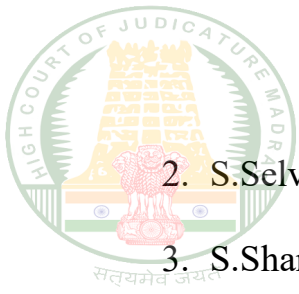
3. S.Dharani

4. S.Dhayanandan

..Appellant(s)

Vs

1. V.Ponnusamy



2. S.Selvaraj

3. S.Shanmugam

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..Respondent(s)

For Appellant(s): Mr.Mukunth
Senior Advocate
for Mr.A.Thiyagarajan

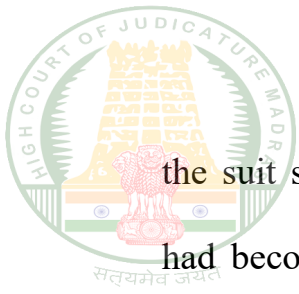
For Respondent(s): Mr.S.Lakshmanasamy for R3

ORDER**(Order of the Court was made by C.V.Karthikeyan J.)**

The plaintiffs in O.S.No.492 of 2023 on the file of IV Additional District Court at Bhavani, Erode District are the appellants herein aggrieved by the judgment dated 06.02.2026, by which judgment the suit was dismissed.

2. The said suit had been filed seeking cancellation of a sale deed said to have been executed by the first defendant as Power of Attorney of the plaintiffs in favour of the third defendant. Even though while examining the present petition it may not be prudent on our part to go deeply into the facts, since the issue of physical possession had not been decided by the trial Court and injunction granted as against first and second defendant had been confirmed when trial had commenced, we are constrained to traverse into the merits of the case.

3. It was the case of the plaintiffs that the plaintiffs had appointed the first defendant as their Power of Attorney. A mortgage had been created over



the suit schedule property in favour of one Thangaraj. The mortgage amount had become due and payable. It is seen from the records that on 07.03.2013

owing to the payment of the mortgage amount, the mortgage deed stood cancelled. That document had been marked as Ex.B9 before the trial Court. Immediately on the next day on 08.03.2013, the first defendant of Power of Attorney sold the property to the third defendant. It must also be mentioned that the mortgage amount was about Rs.6,00,000/-. The sale in favour of third defendant was for a sum of Rs.34,00,000/-. It had been contended that the first defendant, as agent, had an obligation to render accounts to the Principal/ plaintiffs and accordingly, he had handed over Rs.25,00,000/- received as sale consideration from the third defendant to the plaintiffs and the plaintiffs have also executed a receipt for the said sum of Rs.25,00,000/-. All these facts are supported by documents.

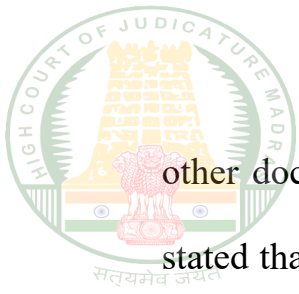
4. The learned trial Judge by the judgment now under appeal had dismissed the suit stating that the sale deed cannot be cancelled. However, unfortunately, no finding had been given regarding physical possession. A perusal of the schedule of lands as given in the plaint would reveal that there are substantial vacant lands and in the midst of it, there is a small house with electricity connection. It is the case of the plaintiffs that they are residing in that small house. It is contended, to evidence this fact, gas connection receipts, electricity receipts and also the fact that caveat was issued to that particular



address to the counsel appearing on behalf of the appellants /plaintiffs have been produced. However, the revenue records have been mutated in favour of third defendant / third respondent. Proceedings had also been initiated and patta had also been granted to the third defendant / third respondent. In separate proceedings, the Revenue Divisional Officer had granted joint patta noting that the appellants herein is in possession of the small house.

5. The learned counsel for the third respondent/third defendant, who is on caveat before us, stated that sugarcane crops are available in the vacant land and the intention of the appellants was to harvest them and make profit, though the lands had been sold to the third respondent/third defendant, who has a right to enjoy the fruits of the harvest and deny the same to the appellants/plaintiffs.

6. On the previous hearing when the matter came up, we had noted that complaints have been lodged against each other, with the appellants claiming that the third defendant had abducted the first appellant and third defendant claiming that he had been assaulted at the behest of the appellants herein. First Information Reports have also been registered by the jurisdictional police in this regard. Therefore, we requested both the sides to produce documents to show physical possession since unfortunately, the trial Court had not rendered a finding on physical possession of the properties. As stated, on the side of the appellants, reliance has been placed on the gas receipts, electricity receipts and



other documents. The learned counsel for the third respondent/third defendant stated that after the order has been passed giving interim injunction, the person who is said to have been kidnapped had surfaced and demolished a shed put up by the third respondent in the land. It is therefore contended that the only intention of the appellants is to harvest the sugarcane crops available in the lands, which are ripe for harvesting. The learned counsel for the third respondent placed reliance on the sale deed which evidences possession being handed over and also the written statement filed before the trial Court by the third defendant/third respondent claiming possession, which fact was confirmed by the 2nd defendant who also stated that on execution of the sale deed, possession was handed over to the third respondent/third defendant. It is contended by the learned counsel for the third respondent/third defendant that to this specific statement of possession, the appellants, as plaintiffs, had not filed any reply and that therefore, it should be deemed they had admitted this statement.

7. We have carefully considered the rival submissions. We have perused the judgment under appeal wherein a finding had not been returned regarding the physical possession. An interim injunction had been granted as against Defendants 1 and 2, but not against third defendant. Later, when pleadings had been completed and the matter was ripe for trial, the learned trial Judge had closed the injunction application making the earlier order absolute as against



Defendants 1 and 2 and not against third defendant, who is the purchaser of the property again without rendering any specific finding regarding physical possession.

8. We had examined the documents and we found that the layout of the land includes a vast extent of agricultural land wherein sugarcane had been grown and are ripe for harvesting. As described in the plaint, there is a small house with electricity connection, where apparently the appellants are in occupation. The apprehension of the third respondent is that under the guise of obtaining an order protecting possession, the appellants would harvest the sugarcane crops. In the absence of finding regarding possession, but on the basis of the documents presented before us, we would make the following order and issue the following directions:

i) Appellants/plaintiffs have no manner of right to harvest the sugarcane crops and the right to harvest vests solely with the third respondent/third defendant;

ii) Appellants/plaintiffs may have only limited right of possession to the house and the immediate adjacent area as described in Item 4 in the plaint schedule, which is limited only for residential purposes and any such allied activities and certainly and definitely do not have any right over the sugarcane crops which are grown in the other items of the plaint schedule property;

iii) Appellants / Plaintiffs cannot exercise possession over any



other items of the suit property other than the limited rights to access to their residence.

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With the above directions, these petitions stand disposed of.

(C.V.K.,J.) (K.R.S.,J.)
30-04-2026

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**C.V.KARTHIKEYAN J.
AND
K.RAJASEKAR J.**

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