



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-06-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

SA No. 589 of 2020

1.Narasimhan
2.Dhamodharan
3.Kumar

..Appellant(s)

Vs

1.M.Kamala
2.Manimekalai@ Mekala
3.M.Pandiyan
4.Ms.Angaiyarkanni @ Rani
5.Elavarasi
6.M.Elango
7.Veni

..Respondent(s)

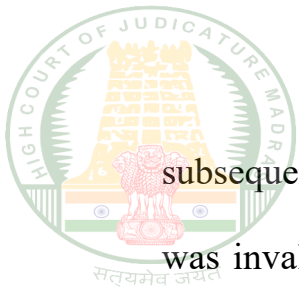
Prayer : Second appeal is filed under Section 100 of Code of Civil Procedure, 1908, praying to set aside the Judgment and Decree in AS.No. 2/2018 dated 17.10.2019 on the file of Additional Subordinate Judge, Chengalpattu confirming the Judgment and Decree dated 09.08.2017 in OS.No. 327/2017 on the file of District Munsif Court, Chengalpattu.

For Appellant(s): M.Aravindan

For Respondent(s): M/s.M.Rajasekar for R7
R5 & R6-served- No appearance
R1 to R4-Notice dispensed with

JUDGMENT

The unsuccessful plaintiffs are the appellants. The suit was filed seeking declaration that settlement deed executed by first defendant in favour of defendant 2 to 6 was null and void. They also sought for declaration that



subsequent sale deed executed by defendants 2 to 6 in favour of 7th defendant was invalid. The plaintiffs also sought for consequential prayer for injunction.

The suit was dismissed by the trial court and the findings of the trial court were affirmed by the first appellate court. Aggrieved by the concurrent findings, the plaintiffs have come before this court.

2. According to the plaintiffs, the suit property was self-acquired property of one Thulakkana Pillai. After death of Thulakkana Pillai, the suit property was inherited by 2nd plaintiff. Later, it was settled by him in favour of 1st plaintiff. It was also stated that the first defendant is the daughter of 2nd plaintiff's father's brother. The defendants 2 to 6 are the children of 1st defendant. It was asserted by the plaintiffs that the defendants 1 to 6 had no right, title or interest over the suit property and the first defendant executed settlement deed in favour of defendants 2 to 6 on 06-04-2006 settling 2 cents in “A” schedule property. The settlement mentioned property has been described as “B” schedule property in the plaint schedule. Later, the defendants 2 to 6 sold the property to 7th defendant. Since these documents were executed by defendants without having any right or interest over the suit property, the present suit has been filed seeking declaration regarding invalidity of the documents and for consequential injunction.

3. The defendants filed a written statement and denied the allegation in the plaint that the suit property was a self-acquired property of Thulakkana Pillai. It was the case of the defendants that the suit property was purchased by



one Munia Pillai, father of Thulakkana Pillai and his brother Govinda Pillai under sale deed dated 27.08.1918. Subsequently, there is an oral partition between Thulakkana Pillai and Govinda Pillai under which, suit “B” scheduled property falls into the share of Govinda Pillai. The first defendant succeeded to the suit “B” scheduled property as an heir of Govinda Pillai. Therefore, according to the defendants, neither Thulakkana Pillai nor the 2nd plaintiff had no right over the suit property and hence, they sought for dismissal of the suit.

4. Before the trial court, the 2nd plaintiff was examined as PW1 and on behalf of the plaintiffs, 16 documents were marked as Ex.A1 to Ex.A16. The 7th defendant's husband was examined as DW1, the 6th defendant was examined as DW2 and yet another witness was examined as DW3. On behalf of the defendants, two documents were marked as Ex.B1 and Ex.B2.

5. The trial court, on appreciation of oral and documentary evidence available on record, came to the conclusion that the plaintiffs had not entitled to any relief for declaration. Aggrieved by the same, the plaintiffs preferred an appeal in A.S.No.2 of 2018 on the file of Additional Subordinate Judge, Chengalpattu. The first appellate court affirmed the findings of the trial court and confirmed the dismissal of the suit. Aggrieved by the same, the plaintiffs have come before this court.

6. The learned counsel for the appellants/plaintiffs vehemently contended that the suit property was assigned to 2nd plaintiff's father Thulakkana Pillai under Exhibit.A16. Therefore, the plaintiffs proved their title over the suit



property. However, the defendants have not filed any documents to substantiate their plea and create cloud over the title of the plaintiffs. In such circumstances, according to him, the courts below were not justified in non-suiting the plaintiffs for their failure to seek declaration of title.

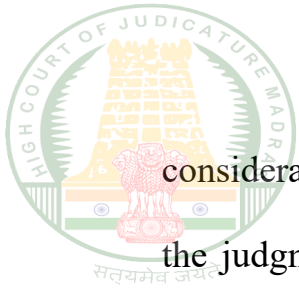
7. It is seen from the averments contained in the plaint, the suit property was a self-acquired property of 2nd plaintiff's father Thulakkana Pillai. It is further pleaded by plaintiffs that after death of Thulakkana Pillai, the 2nd plaintiff got the property by way of succession and later, settled in favour of 1st plaintiff. In the plaint, the plaintiffs also pleaded adverse possession. At the time of trial, the plaintiffs produced Exhibit.A16, assignment order passed by Tahsildar, assigning 3 cents of land in suit Survey No. 33/10 to Thulakkana Pillai. Relying on the said document, the learned counsel for the appellants/plaintiffs attempted to argue that the plaintiffs proved their title over the suit property. Under Ex.A16, only 3 cents of land in suit survey number was assigned in favour of 2nd plaintiff's father Thulakkana Pillai. However, a perusal of the plaint description would indicate that the plaintiffs claim right over 4,590 Sq.feet of land in Old Survey.No.33 part equivalent to New Survey.Nos. 66/11 and 66/19. The plaintiffs are not in a position to explain how 3 cents of land assigned to Thulakkana Pillai increased to 4,590 Sq.feet. The first defendant said to have executed settlement deed in respect of portion of the “A” schedule property namely 2 cents in favour of defendants 2 to 6.



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8. It is not clear whether the two cents of land described in suit B schedule property falls within the 3 cents assigned to Thulakkana Pillai under Exhibit A16 or it falls outside the property covered by assignment order. It is also seen that in Exhibit A2, settlement deed executed by 2nd plaintiff in favour of 1st plaintiff, the suit properties were not described as self-acquired properties of Thulakkana Pillai. However, the suit property was described as ancestral properties. Under Exhibit A2 also, the plaintiffs settled a larger extent of 4590 Sq. feet in favour of 1st plaintiff. The plaintiffs miserably failed to explain how 3 cents equivalent to 1296 Sq.feet assigned in favour of Thulakkana Pillai increased to 4590 Sq. feet. The plaintiffs also miserably failed to establish the portion of the property dealt with by the first defendant under impugned settlement deed falls within three cents assigned in favour of Thulakkana Pillai. The plaintiffs have no consistent case with regard to the character of the suit property.

9. In the absence of plausible explanation on the part of the plaintiffs how 3 cents of land under Exhibit.A16 increased to 4590 Sq.feet under Exhibit A2, there is a serious cloud over the title of the plaintiffs. Hence, the prayer sought for by the plaintiffs based on their title is not at all maintainable unless the title of the plaintiffs is declared. The courts below rightly appreciated the said position and non-suited the plaintiffs on the ground that they failed to seek declaration of title. I do not find any substantial question of law arising for



consideration. Accordingly, the second appeal stands dismissed by confirming the judgment and decree passed in AS.No.2 of 2018 dated 17.10.2019 on the file of Additional Subordinate Judge, Chengalpattu confirming the judgment and decree dated 09.08.2017 in OS.No.327 of 2017 on the file of District Munsif Court, Chengalpattu. There shall be no order as to costs.

24-06-2026

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

1. The Additional Subordinate Judge, Chengalpattu
2. The District Munsif Court, Chengalpattu.



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S.SOUNTHAR, J.

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