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S.A.No.429 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.09.2025

PRONOUNCED ON : 02.01.2026

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

S.A. No.429 of 2014

1. Sekar
S/o.Palanimuthu
2. Rangan @ Kandasamy
S/o.Ammasai
3. C.Mani
S/o.Chinnapayan
4. P.Govindan
S/o.Palanimuthu
1 to 4 are residing at
Adhi Dravidar Street,
Kejalnaickenpatti,
Salem Taluk,
Salem District.

... Appellants

Versus

Sukaran (died)
1.Periyathayee
W/o.Sukran

2. Mariammal
3. Vijaya
4. Venkatachalam
5. Kandasamy
2 to 5 are children of Sukran
all are residing at
Adi Dravidar Street,
1/14



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Kejalnaickenpatti,
Salem Taluk.

... Respondents

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PRAYER in S.A.:

Second Appeal filed under Section 100 of the Civil Procedure Code against the judgment and decree dated 29.11.2013 made in A.S.No.61 of 2012 on the file of the Principal Subordinate Court, Salem reversing the judgment and decree dated 16.03.2012 in O.S.No.800 of 2007 on the file of the II Additional District Munsif Court, Salem.

APPEARANCE OF PARTIES:

For Appellant : Mr.P.Jagadeesan

For Respondents : Mr.T.M.Hariharan

JUDGMENT

This Second Appeal is directed against the judgment and decree passed by the Principal Subordinate Judge, Salem, in A.S. No. 61 of 2012 dated 29.11.2013, whereby the judgment of the learned II Additional District Munsif, Salem, in O.S. No. 800 of 2007 dated 16.03.2012 was reversed.

2. In this Second Appeal, the appellants are the defendants and the respondents are the legal heirs of the original plaintiff. For the sake of



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convenience, the parties will be referred to as they stood before the Trial Court.

3. The brief facts necessary to dispose of this appeal are as follows:

The plaintiff filed the suit for bare injunction in respect of two items of property comprised in S. No. 79/4 measuring 8.5 cents and S. No. 79/3A measuring 23.5 cents. In respect of the property comprised in S. No. 79/3A, there is no dispute. The defendants themselves admitted that it is patta land belonging to the plaintiff and, accordingly, the suit was decreed by the Trial Court in respect of this property.

4. The dispute pertains only to the land comprised in S. No. 79/4.

According to the plaintiff, this is Gramanatham land. Patta stands in his name and he has been in possession of the property for more than 12 years after paying necessary taxes to the Government, and all revenue records also stand in his name. He contended that, except the Government, no other person is entitled to question his title. Alleging that the defendants disturbed his possession, he filed the suit.



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5. On the defendants' side, the first defendant filed a written statement which was adopted by the other defendants. The defendants admitted that the land in dispute is Gramanatham, but disputed the exclusive possession of the plaintiff. They contended that the land is communal land belonging to the Adidraavidar community. They stated that members of the said community have been using the well found in the land for performing last rituals of the dead and for taking bath. They further claimed that, during festival seasons, people assemble there and use the well water. An electric pumpset had been erected in the land by the Panchayat and an electric motor had been installed. Electricity consumption charges were being paid by the Panchayat. Therefore, they contended that the plaintiff had no title to the disputed land and prayed for dismissal of the suit.

6. The Trial Court, after considering the oral and documentary evidence, dismissed the suit in respect of the land in S. No. 79/4 holding that the plaintiff had not proved his exclusive possession of the disputed property and had failed to establish the basis on which his name was included in the revenue records.



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7. On appeal, the lower Appellate Court held that the plaintiff had proved his possession and reversed the Trial Court judgment and granted permanent injunction against the defendants.

8. In the decision in **Vishwas Footwear Company Ltd. v. The District Collector and Others, W.A. No. 1275 of 2006 dated 28.07.2011 (MANU/TN/3235/2011)**, this Court held that when a party approaches the Revenue Divisional Officer seeking cancellation of patta, the RDO has no authority to adjudicate title and must instead direct the party to approach the civil court for appropriate declaratory relief. In the present case, it was contended that, based on the representation of DW1, the patta standing in the name of the plaintiff was cancelled without notice and without directing DW1 to approach the civil court. Such cancellation, effected during the pendency of the suit, was arbitrary and contrary to the above principle and, therefore, the said decision favours the plaintiff's case.

9. In the judgment in re **Ananthula Sudhakar v. P. Buchi**



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Reddy, (2008) 4 SCC 594 the Hon'ble Supreme Court clarifies that a suit for injunction simpliciter is maintainable where the plaintiff is in possession and such possession is threatened. A suit for declaration becomes necessary only when the defendant sets up an independent title and raises a genuine dispute. In the present case, the defendants do not claim any title in themselves; their contention is only that the land belongs to a community, for which no documentary evidence has been produced. The plaintiff's possession is also not specifically denied. Accordingly, the said authority supports the plaintiff's case and validates the maintainability of the suit for bare injunction. Thus, both precedents support the decree passed in favour of the plaintiff.

10. At the time of admission of the Second Appeal, the following substantial questions of law were framed:

1. Whether the lower appellate Court right in granting a decree for permanent injunction, especially when the plaintiff failed to prove his title and possession to the suit property by way of any valid evidence?
2. Whether or not the defendants categorically proved that the suit property is a communal land through the commissioner's report and plan (Ex.C1 and C2) the admissions of PW1 and through Revenue records like



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adangal Ex.B5 etc?

3. Whether the suit for bare injunction is maintainable in law in the absence of the prayer for declaration of the plaintiff's title, especially when the title and possession of the suit property is seriously disputed?

4. Whether or not the lower appellate Court right in shifting the burden of proof of title and possession on the defendants when the plaintiff failed to discharge his burden of proof?

11. The plaintiff seeks a decree of permanent injunction restraining the defendants, who are private individuals, from interfering with his peaceful possession and enjoyment of the suit-schedule property.

12. It is an admitted fact that the suit property is Gramanatham land situated within the limits of the village. The patta stands in the name of the plaintiff, and the adjacent land also admittedly belongs to him. The plaintiff has proved his physical possession over the suit lands. The Advocate Commissioner's report explicitly shows that the plaintiff's house is located there. After filing the suit, the patta standing in the name of the plaintiff was cancelled without even giving notice to the patta holder. The appeal filed against the cancellation of patta is still pending.



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As on the date of filing of the suit, patta stood in the name of the plaintiff which shows that he was in possession of the property.

13. On the defendants' side, the possession of the plaintiff was not denied. However, their contention is that the plaintiff is not in exclusive possession. They relied upon the borewell, water tank, electric motor and pumpset erected by the Panchayat and the fact that electricity consumption charges were being borne by the Panchayat. DW3, the Panchayat Secretary, in his evidence admitted that though the Panchayat had installed a borewell, water tank and electric motor in the suit land, the Panchayat does not possess any title document, patta or revenue record relating to the suit property. Merely because there exists a public water facility, the same cannot divest the plaintiff of his lawful possession, particularly when the Panchayat itself does not claim ownership.

14. The defendants resisted the suit by contending that the land belongs to the "Adi Dravidar community" as a whole and is used for communal purposes such as assembly, last rituals and festival gatherings. However, no revenue record, title deed, patta or any documentary evidence has been placed before this Court to support the alleged claim of



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communal ownership.

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15. Under Tamil Nadu Revenue Law, Gramanatham lands do not automatically belong to the public or the Panchayat. When patta and possession stand in favour of an individual, he is presumed to be the lawful occupant. The defendants' contention that the land belongs to a wider community, without seeking representative capacity and without proof, is unsustainable.

16. The suit is only for injunction based on possession. The plaintiff has proved his lawful possession by: (i) Patta, (ii) Adjacent title ownership, and (iii) Continuous enjoyment. On the other hand, the defendants have failed to show that they are in possession or that they have any legal right over the suit property.

17. The settled law is that in a suit for injunction, a person in settled possession is entitled to protection against private individuals. Only the Government may question title over Gramanatham land, not private strangers without any supporting authority. This Court finds that



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the defendants have attempted to disturb the plaintiff's possession without any semblance of title, interest or legal right. Such interference warrants judicial protection.

18. The plaintiff filed the suit for bare injunction on the basis of possession against the defendants who are strangers. The defendants are not claiming title for themselves but only state that the disputed land is communal land; however, no document has been filed. The plaintiff proved his possession by producing patta, patta transfer proceedings and kist receipts. The Advocate Commissioner, who visited the suit property in the presence of both parties, recorded that on the eastern side of the property the plaintiff's west-facing house portico with steps was found. The defendants admitted the possession of the plaintiff but refused to accept exclusive possession.

19. On the defendants' side, Exs. B1 to B8 were marked. All the documents are dated after 02.07.2007, i.e., emerged during the pendency of the suit. Hence, no importance may be given to those documents. Injunction can be granted to protect the possession of a person who is in settled or lawful possession against any person disturbing possession,
10/14



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except the true owner. Here, the defendants are not claiming title for themselves. The alleged Adidravidar community is not represented by the defendants. Hence, the bare injunction granted on the strength of possession by the first appellate Court is valid.

20. The suit filed for bare injunction without claiming title against third parties is maintainable. Ex. B5 emerged after the suit pursuant to cancellation of patta standing in the name of the plaintiff without notice during the pendency of the suit. Against the said arbitrary order, an appeal filed by the plaintiff is pending. Hence, no importance can be given to documents procured after filing of the suit. The first Appellate Court has not shifted the burden of proof since possession of the plaintiff was admitted by the defendants. Thus, all the substantial questions of law are answered against the appellants/defendants.

21. The document, especially Ex. B5 relied on by the defendants, also emerged after the suit. Further, it does not belong to any of the defendants.



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22. For the reasons stated above, the substantial questions of law are answered against the appellants. The judgment and decree of the lower Appellate Court are confirmed.

23. It is made clear that the appeal pending before the District Revenue Officer against the order of cancellation of patta shall be decided by the concerned authority strictly within the limits of its jurisdiction, in accordance with law, and after affording due opportunity to all parties, by following the principles of natural justice, and uninfluenced by this judgment or any observations made herein.

24. It is further clarified that the revenue authorities are not competent to adjudicate questions of title. In the event a serious or bona fide dispute relating to title is found to arise between the parties, the revenue authorities shall refrain from entering upon such adjudication and leave the parties to work out their remedies before the competent Civil Court, which alone is empowered to decide title disputes.



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25. It is also clarified that the decree of permanent injunction granted in the present suit is only a protection of settled possession against private interference and shall not be construed as a declaration of title, nor shall it preclude the parties from seeking appropriate declaratory relief before the Civil Court, if so advised.

26. In the result. this Second Appeal is dismissed with costs.
Connected miscellaneous petitions, if any, are closed.

02.01.2026

dpq

Index:Yes/No

Speaking Order /Non-speaking order

Neutral citation:Yes/No

To

1.The Principal Subordinate Court,
Salem

2. The II Additional District Munsif Court,
Salem.

3. The Section Officer,
V.R.Records, Madras High Court.

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DR. A.D. MARIA CLETE, J

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Pre-Delivery Judgment in
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