



S.A.Nos.70 of 2014 & 1282 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.10.2025

PRONOUNCED ON : 12.01.2026

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

S.A.Nos.70 of 2014 & 1282 of 2013

S.A.Nos.70 of 2014

1. Chandra
2. Mani
3. Revathi
4. Mahadevi

...Appellants

Versus

1. Kaliyaperumal
2. Venkatakrisnan

... Respondents

PRAYER in S.A.No.70 of 2014.:

Second Appeal filed under Section 100 of the Civil Procedure Code against the judgment and decree passed in A.S.No.126 of 2012 on the file of the Principal District Judge, Ariyalur dated 09.07.2013 reversing the judgment and decree passed in O.S.No.307 of 1999 on the file of the District Munsif Court, Jayamkondan dated 23.09.2010 and prays to set aside the same.

APPEARANCE OF PARTIES:

For Appellants : Mr.R.Gokulakrishnan

For Respondents : Mr.K.A.Vimal Kumar for R1
R2 – served no appearance



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S.A.No.1282 of 2013

Kaliyaperuaml

...Appellant

Versus

1. Mani

2. Chandra

3. Revathi

4. Mahadevi

5. Venkatakrisnan

... Respondents

PRAYER in S.A.No.1282 of 2013.:

Second Appeal filed under Section 100 of the Civil Procedure Code against the judgment and decree passed in A.S.No.126 of 2012 on the file of the Principal District Judge, Ariyalur dated 09.07.2013 in partly confirming the judgment and decree passed in O.S.No.307 of 1999 on the file of the District Munsif Court, Jayamkondan dated 23.09.2010 and prays to set aside the same.

APPEARANCE OF PARTIES:

For Appellant : Mr.K.A.Vimal Kumar

For Respondents : Mr.R.Gokulakrishnan
for R1 to R4
R5 – Served no appearance

COMMON JUDGMENT

These two second appeals arise from the common judgment and decree dated 09.07.2013 in A.S.No.126 of 2012, whereby the first appellate Court set aside the decree of declaration of title granted by the trial Court, but confirmed the decree of permanent injunction in favour of the plaintiffs in O.S.No.307 of 1999.

2. S.A.No.70 of 2014 is by the plaintiffs, seeking restoration of the



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declaration of title; S.A.No.1282 of 2013 is by the first defendant, challenging the grant/confirmation of injunction.

3. Since both second appeals arise from the same lis and overlap on facts and law, they are disposed of by this common judgment.

4. For the sake of convenience and clarity, the parties in both the second appeals are referred to in this judgment according to their respective ranks as arrayed in the suit in O.S.No.307 of 1999.

5. The suit O.S.No.307 of 1999 was filed by Mani and others against Kaliyaperumal and another seeking declaration of title and permanent injunction in respect of the suit property.

6. The plaintiffs' case, in substance, is: (i) there was a family partition around 1964; (ii) thereafter, for convenient enjoyment, an exchange arrangement was entered into between the plaintiffs' father and the first defendant, by which the plaintiffs' father came to enjoy the suit property; (iii) patta/mutation and tax payments stood in their line; (iv) the plaintiffs rely on a settlement deed dated 07.07.1999 executed by their father in their favour.



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7. The first defendant denied the plaintiffs' title and possession; pleaded a registered partition deed dated 08.12.1964 and asserted that the suit property stood allotted to his share; denied any exchange by which the plaintiffs' father could acquire title; and contended that the settlement deed dated 07.07.1999 is void as the executant had no title.

8. The trial Court decreed the suit for declaration and injunction. The first appellate Court found that the trial Court had proceeded on a presumption that "there should have been an exchange arrangement", which the appellate Court held to be legally unsustainable.

9. On title, the first appellate Court held that the settlement deed dated 07.07.1999 was not binding since the executant had no title, and therefore refused declaration. However, on possession, the first appellate Court relied upon revenue/tax materials (Exs.A2 to A8) and confirmed permanent injunction.

10. Aggrieved by the judgment of the first appellate court, both parties have preferred the above Second Appeals before this Court, as stated supra, raising the following grounds:

11. Plaintiffs' grounds in S.A. No. 70 of 2014: The plaintiffs
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contend that the first appellate court reversed the trial court decree without proper appreciation of the oral and documentary evidence, and that its judgment is contrary to law and the weight of evidence. They rely principally on the registered settlement deed dated 07.07.1999 (Ex.A1) and assert long, peaceful possession and enjoyment of the suit property pursuant to that deed; they also emphasise patta/mutation entries in their favour (Ex.A2, Ex.A4) and admissions/evidence said to support their possession (including DW2 and aspects of DW1's cross-examination). They further allege perversity and non-consideration of material evidence, including that the defendant's mortgage document was a post-suit, preparatory document, and urge that despite accepting plaintiffs' possession, the first appellate court erroneously refused declaration.

12. Defendant's grounds in S.A. No. 1282 of 2013: The defendant (appellant) challenges the decree of permanent injunction granted by the lower appellate court as legally erroneous and based on misreading of evidence. The principal submission is that the plaintiffs failed to prove possession as on the date of suit, and that the lower appellate court wrongly founded injunction on mutated revenue records allegedly obtained after institution of the suit and not shown to pertain to the suit property, contrary to the "anti litem motem" principle (and impermissibly

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relying on “post litem motem” documents). The appellant also asserts that he had proved his own title/enjoyment/possession and that, having upheld his title, the lower appellate court could not grant injunction against the true owner; additionally, the plaintiffs are alleged to have suppressed material facts (including overstatement of extent/title), attracting the bar under Section 41(i) of the Specific Relief Act to discretionary injunction relief.

13. This Court on admission of the Second Appeals has framed the following substantial questions of law:

In S.A.No.1282 of 2013:

Having found that the suit property was allotted to the share of the appellant/1st defendant and upholding his title to the same, whether the Lower Appellate Court is right in law in decreeing relief of injunction as against the true owner?

In S.A.No.70 of 2014:

(a) Whether the first appellate court was right in rejecting the declaration in favour of plaintiff as decreed by trial court and also accept the plaintiff possession in the suit property based on the legal maxim



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“Title follows possession”?

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(b) Whether the first appellate court right in rejecting the case of the plaintiff partition that the arrangement has been effected in 08.12.1964 as admitted by the defendant in his cross examination and enjoyed the possession as per the partition deed?

(c) Whether the first appellate court right in rejecting the case of the plaintiff that the father of plaintiff executed a registered settlement deed in the year which as marked as Ex.A1 proved according to evidence act by examining the witnesses?

14. The learned counsel for the plaintiff, seeking restoration of the decree for declaration of title, contended that the suit property is ancestral in nature. It was submitted that the plaintiff and the brothers of the first defendant had effected an exchange of properties in the year 1965, pursuant to which the suit property came into the possession of the plaintiff. Consequent thereto, the plaintiff's father executed a settlement deed in favour of the plaintiff in the year 1999. On a cumulative reading of the oral and documentary evidence, learned counsel argued that the chitta and patta stand in the name of the plaintiff and that the plaintiff is in possession and enjoyment of the suit property. On these facts, the plaintiff was asserted to be entitled to a decree for declaration as well as



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consequential relief. Reliance was placed on paragraph 13 of the cited judgment in S.A. No. 651 of 1995 dated 27.01.2006.

15. Per contra, learned counsel for the defendant submitted that once the relief of declaration has been refused, no decree for permanent injunction could have been granted. It was argued that the first appellate court correctly held that the plea of exchange had not been proved, and that where the value of the property exceeds Rs.100, an oral exchange is legally impermissible. It was further contended that Exhibits A3 to A7 relied upon by the plaintiff are all post-suit documents and that the first appellate court erred in placing reliance on such documents to grant a decree for permanent injunction, rendering the judgment liable to be set aside. In support of the defence, reliance was placed on the decision reported in (2022) 12 SCC 128.

16. In reply, learned counsel for the plaintiff submitted that all revenue records stand in the plaintiff's name and that no notice was issued to the plaintiff at the time of mutation. It was contended that possession follows title and, therefore, the plaintiff is entitled to a decree for declaration.



Substantial Question of Law in S.A.No.1282 of 2013 and Substantial Question of Law No (a) in S.A.No.70 of 2014

17. The suit is one for declaration of title and consequential injunction. Where title is directly in issue and is negatived, the consequential injunction cannot ordinarily survive as a matter of course, unless the plaintiff establishes an independent legal basis to protect possession against the defendant (for example, established settled possession not referable to a disputed/failed title claim). The decision in **Anathula Sudhakar v. P. Buchi Reddy [2008 4 SCC 594]** explains that when title is under a cloud and the dispute is substantial, the proper remedy is declaration with consequential relief; and the grant of injunction depends upon lawful possession and the overall nature of the title dispute.

18. In the case on hand, the plaintiffs' pleaded foundation for possession is not "possession simpliciter", but possession traceable to an alleged exchange arrangement after the family partition. The first appellate Court itself held that the trial Court's inference of exchange was a presumption without legal support. In **S.A. No. 651 of 1995**, the Court upheld a pre-existing common right, clearly reflected in registered title



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deeds and corroborated by the Commissioner's report, and rejected an alleged oral relinquishment only because it was unregistered and legally invalid. In the present case, however, the plaintiffs themselves rely on an alleged exchange as the very basis of their title and possession, which has been found not proved. In the absence of any independent, established pre-existing right, the ratio of the said decision is inapplicable to the plaintiffs' case. Once the exchange is not proved, the plaintiffs' claim that their line acquired/enjoyed the suit property by such exchange loses its legal mooring.

19. The first appellate Court refused declaration holding that the settlement deed dated 07.07.1999 cannot bind the true title holder because the executant had no title. When declaration is refused on the footing that the settlor had no title, a decree of injunction cannot be sustained merely on revenue entries or a presumption.

20. The plaintiffs' reliance on the maxim "title follows possession" cannot assist them in the manner suggested. (i) The governing presumption in disputes of vacant/agricultural lands, where parties contest title and possession, is generally that possession follows title,



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particularly where the claimant fails to prove the asserted transaction which is said to have altered enjoyment; (ii) in any event, Section 110 of the Evidence Act and the “title follows possession” idea operates in a limited evidentiary setting and is rebuttable, and cannot be used to defeat proved title.

21. Further, revenue entries and kist receipts (Exs.A2 to A8) may be relevant to show enjoyment, but they are not documents of title; they cannot be elevated to defeat title flowing from a proved partition allotment, particularly when the plaintiffs’ pleaded basis (exchange) is not proved.

22. Therefore, the first appellate Court erred in sustaining injunction merely on revenue/tax materials after having negated title in a title suit and after finding that the exchange basis is not legally proved.

23. The substantial question in S.A.No.1282 of 2013 is answered in favour of the appellant/first defendant. The substantial question (a) in S.A.No.70 of 2014 is answered against the plaintiffs.

Substantial Question of Law No (b) in S.A.No.70 of 2014



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24. Even assuming the partition dated 08.12.1964 is admitted, the plaintiffs' own case is not that they are in enjoyment under the partition allotment, but that they are in enjoyment pursuant to the alleged exchange arrangement post-partition. When the plaintiffs' pleaded route to possession is exchange (and not partition), the admission of partition does not advance their title claim; rather, it supports the first defendant's case of allotment and title.

25. This Substantial Question of Law is answered against the plaintiffs.

Substantial Question of Law No (c) in S.A.No.70 of 2014 (Ex.A1 settlement deed)

26. Even if execution/attestation of Ex.A1 settlement deed dated 07.07.1999 is proved, the decisive issue is whether the settlor had title to convey. The first appellate Court has found that the executant had no title and therefore the settlement deed is not binding. A document duly proved cannot convey better title than what the executant possessed.

27. This Substantial Question of Law is answered against the plaintiffs.



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28. In the result, S.A.No.70 of 2014 (by the plaintiffs) fails and is dismissed. S.A.No.1282 of 2013 (by the first defendant) is allowed; the decree of permanent injunction sustained by the first appellate Court is set aside. Consequently, the suit in O.S.No.307 of 1999 shall stand dismissed in entirety. No order as to costs. Connected miscellaneous petitions, if any, are closed.

12.01.2026

dpq

Index:Yes/No

Speaking Order /Non-speaking order

Neutral citation:Yes/No

To

1.The Principal District Judge,
Ariyalur.

2. The District Munsif Court,
Ariyalur.

3. The District Munsif,
Jayamkondan

4. 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
S.A.Nos.70 of 2014 & 1282 of 2013

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