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S.A.No.898 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.11.2025
PRONOUNCED ON : 09.06.2026

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

S.A. No. 898 of 2014
and
M.P. No. 1 of 2014

Natarajan
S/o.Ramasamy Reddiar
Sulankurichi Village
Sankarapuram Taluk.

..Appellant/Plaintiff

Vs.

Gandhi
S/o.Periyasamy
Sulankurichi Village
Sankarapuram Taluk.

..Respondent /Defendant

PRAYER: Second Appeal filed against the Judgment and Decree of the Subordinate Judge's Court at Kallakurichi dated 30.07.2010 in A.S. No. 18 of 2008 confirming the Judgment and decree of the III Additional District Munsif Court, Kallakurichi dated 26.06.2006 in O.S. No. 488 of 1999.

For Appellant(s): Mr.P.Valliappan, Senior Counsel for
Mr.S.M.S.Sriram Narayanan.

For Respondent(s): Ms.V.Srimathi.

J U D G M E N T

This Second Appeal is filed by the plaintiff challenging the judgment and decree dated 30.07.2010 passed in A.S. No.18 of 2008 by the learned



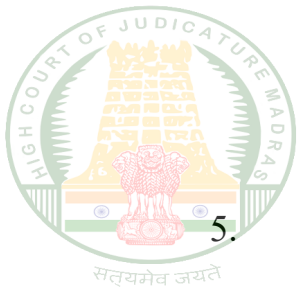
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Subordinate Judge, Kallakurichi, confirming the judgment and decree dated 26.06.2006 passed in O.S. No.488 of 1999 by the learned III Additional District Munsif, Kallakurichi.

2. The suit was filed for declaration of title and permanent injunction in respect of land in Survey No.156/1B, old Survey No.156/1, Thandalai Village, Sankarapuram Taluk, measuring 0.70.0 hectares, together with a well and motor.

3. The Trial Court decreed the suit only in respect of 1 acre 16 cents and dismissed it for the remaining extent. The First Appellate Court confirmed the decree. The plaintiff has therefore filed this Second Appeal.

4. For convenience, the parties are referred to as they were arrayed before the trial court.



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5. The plaintiff's case is that the suit property, along with other properties, originally belonged to one Pethu Reddiar, who executed a registered gift/settlement deed dated 08.02.1960 in favour of Sulakshana, the plaintiff's mother. Pursuant to the said document, possession was delivered to her and she continued to enjoy the property by paying kist to the Government. Under the UDR scheme, patta No.163 was also issued in her name and the suit property was sub-divided as Survey No.156/1B.

6. Thereafter, the plaintiff, his brothers and mother entered into a registered partition deed dated 17.05.1990, under which the suit property, shown as 'C' schedule property, was allotted to the plaintiff. The plaintiff claims that he has been in continuous possession and enjoyment of the suit property by paying kist and other revenue dues, and that he has also dug a well and obtained electricity service connection in the property. According to the plaintiff, he has title to the suit property both under the above documents and also by long, continuous and prescriptive possession through himself and his mother.



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7. The plaintiff further contends that the defendant has no right, title or possession over the suit property. Since the defendant's lands are situated near the suit property, he allegedly attempted, from 18.07.1999, to interfere with the plaintiff's peaceful possession by denying his title. Hence, the suit has been filed for declaration of the plaintiff's title to the suit property and for permanent injunction restraining the defendant from interfering with his peaceful possession and enjoyment, together with costs.

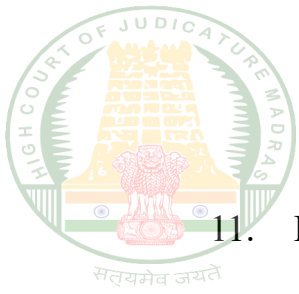
8. The defendant denies the plaintiff's claim of absolute title and possession over the entire suit property. According to the defendant, though the property originally belonged to Pethu Reddiar, who was the father of Vaithilinga Reddiar, Srinivasa Reddiar and Ramakrishna Reddiar, the settlement deed dated 08.02.1960 in favour of Sulochana Ammal, the plaintiff's mother, related only to an undivided share. Sulochana Ammal had earlier filed O.S. No.145 of 1962 for partition, and in the final decree proceedings she was allotted only the eastern 1 acre 16 cents out of the total extent of 3 acres 54 cents in R.S. No.156/1. She also took delivery of the said extent through Court on 19.11.1965.



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9. The defendant further contends that the remaining western extent of 2 acres 38 cents continued to belong to the sons of Pethu Reddiar, namely Vaithilinga Reddiar, Srinivasa Reddiar and Ramakrishna Reddiar, who divided the same under a registered partition deed dated 31.05.1978. Thereafter, the defendant purchased the said western extent under registered sale deeds dated 02.06.1999, 24.06.1999 and 01.07.1999 from the respective sharers/legal heirs and claims to be in possession and enjoyment of the same as owner.

10. The defendant also disputes the UDR patta relied upon by the plaintiff, contending that Sulochana Ammal was never entitled to or in possession of 0.70.0 ares and that the patta was obtained for a larger extent than her entitlement. According to the defendant, the plaintiff is entitled only to the eastern 1 acre 16 cents, while the defendant is entitled to the remaining western portion. Hence, the defendant seeks dismissal of the suit with costs, also contending that the suit is not properly valued and that the Court has no pecuniary jurisdiction.



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11. Before the Trial Court, the plaintiff examined himself as PW1 and examined Muthusamy as PW2 and marked Exs.A1 to A4. The defendant examined himself as DW1 and examined Radha as DW2 and marked Exs.B1 to B8.

12. Ex.A1 is the settlement deed dated 08.02.1960. Ex.A2 is the patta. Ex.A3 is the partition deed dated 17.05.1990. Ex.A4 consists of kist receipts. Ex.B1 is the certified copy of the suit register extract in O.S.No.145 of 1962. Ex.B2 is the delivery receipt in that suit. Ex.B3 is the partition deed dated 31.05.1978. Exs.B5 to B7 are the sale deeds in favour of the defendant. Ex.B8 is the FMB plan.

13. The Trial Court found that Ex.A1 related only to an undivided share in Survey No.156/1. It further found from Ex.B1 and Ex.B2 that Sulochana Ammal had earlier filed O.S.No.145 of 1962, obtained only 1 acre 16 cents and took delivery of that extent through Court. On that basis, the Trial Court held that the plaintiff, who claims only through Sulochana Ammal, could not claim more than 1 acre 16 cents. The suit was therefore decreed only to that extent.



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14. The First Appellate Court independently considered the same documents and confirmed the Trial Court's finding. It held that Ex.A2 patta and Ex.A4 kist receipts could not confer title beyond what Sulochana Ammal had obtained in the earlier civil proceedings. It also accepted the defendant's case that the remaining western extent had gone to the other branch and that the defendant purchased under Exs.B5 to B7.

15. This Second Appeal was admitted on the following substantial questions of law:

1. When Pethu Reddiar had executed Exhibit A-1 registered Settlement Deed dated 8.2.1960 in favour of the mother of the appellant in respect of the entire suit property whether the respondent can claim right on the basis of Sale Deed executed by sons of Pethu Reddiar particularly when they had no right to execute the Sale Deeds in respect of the suit property ?

2. When the title of the appellant was established by virtue of Exhibits A-1 and A-3 and possession was affirmed by means of Exhibit A-2 Patta

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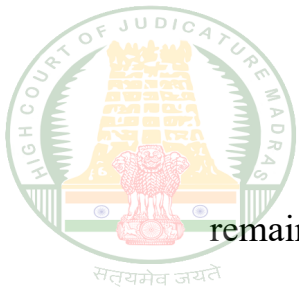


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and Exhibit A-4 Kist receipts, are the Courts below correct in law in non-suiting the appellant in respect of 57 cents in the suit property ?

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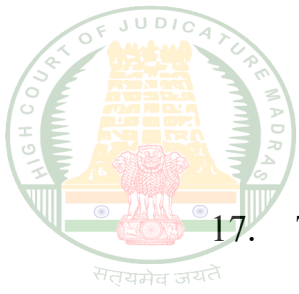
16. On behalf of the appellant/plaintiff, the Learned Counsel argued that the concurrent findings of the Courts below are perverse, contrary to the evidence and liable to be interfered with under Sections 100 and 103 CPC; that the suit property measuring 1 acre 73 cents in Survey No.156/1B originally belonged to Pethu Reddiar, who, under Ex.A1 registered settlement deed dated 08.02.1960, settled the entire property in favour of the plaintiff's mother Sulochana Ammal, his niece; that the said settlement was accepted and acted upon, revenue records were mutated, Ex.A2 patta was issued in her favour, and the property was later subdivided as Survey No.156/1B; that under Ex.A3 registered partition deed dated 17.05.1990 between the plaintiff and his mother, the suit property was allotted to the plaintiff, who has been in peaceful possession and enjoyment from the date of partition; that Ex.A2 patta and Ex.A4 kist receipts, though revenue records, support the appellant's long possession and enjoyment; that the defendant, while admitting Pethu Reddiar's ownership and the execution of Ex.A1, wrongly contended that Sulochana Ammal was entitled only to 1 acre 16 cents and that the



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remaining 2 acres 38 cents belonged to the family of Vaithilinga Reddiar;

that the Courts below erred in restricting the plaintiff's right to 1 acre 16 cents by relying on Exs.B1 and B2, namely the suit register and delivery receipt, since such records are only ministerial in nature and cannot override or diminish the effect of a registered settlement deed; that, in any event, even on Ex.B1 suit register the plaintiff was entitled to not less than 1.32¾ acres, and the amendment dated 27.05.1953 to the suit schedule was ignored by the courts below; that the delivery receipt itself would show that delivery was not lawfully taken and was allegedly obtained by force; that the Courts below failed to properly analyse Exs.A1 and A3, wrongly ignored material documents, and accepted the defendant's title without independent proof; that Exs.B5 to B7 sale deeds in favour of the defendant were invalid, belated and created on the eve of the dispute, since the alleged vendors, being the sons/heirs of Vaithilinga's branch, had no transferable right after the entire property stood divested under Ex.A1; that no person can convey a better title than he possesses; and that, therefore, the substantial questions of law ought to be answered in favour of the appellant, the judgments of the Courts below ought to be set aside, and O.S.No.488 of 1999 ought to be decreed in entirety.



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17. The learned counsel for the respondent/defendant submitted that the suit property originally belonged to Pethu Reddiar, who executed the settlement deed dated 08.02.1960 only in respect of an undivided portion in favour of Sulochana Ammal, the plaintiff's mother. Pursuant to the earlier partition proceedings, Sulochana Ammal was allotted only 1 acre 16 cents, and therefore the plaintiff, who claims through her, cannot seek declaration of title beyond the said extent.. It is further submitted that the defendant purchased the remaining property from the sons of Pethu Reddiar and their legal heirs under the sale deeds Ex.B5 to B7, and has been in possession and enjoyment of the said property. The Trial Court and the First Appellate Court, on proper appreciation of Exs.A1 to A4 and the defendant's documents, rightly held that the plaintiff is entitled only to 1 acre 16 cents. The plaintiff's claim for 0.70.0 hectares is based mainly on the UDR patta marked as Ex.A2, but patta is not a document of title and cannot enlarge the plaintiff's right beyond what Sulochana Ammal was legally entitled to. Hence, there is no perversity or warranting interference with the concurrent findings of the Courts below, and the Second Appeal is liable to be dismissed.



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18. Discussion: The dispute is narrow. It is not in dispute that Pethu Reddiar was the original owner. It is also not in dispute that Ex.A1 settlement deed was executed in favour of Sulochana Ammal. The real question is whether Sulochana Ammal obtained the entire extent now claimed by the plaintiff, or whether her right stood confined to 1 acre 16 cents by reason of the earlier partition proceedings.

19. Ex.A1 settlement deed cannot be read in isolation. The Courts below have concurrently found that Sulochana Ammal herself relied on Ex.A1 settlement deed and filed O.S.No.145 of 1962 for partition and separate possession. Ex.B1 shows that she obtained a decree only in respect of 1 acre 16 cents in Survey No.156/1. Ex.B2 shows that she took delivery of that extent through Court. The appeal and the second appeal arising from that earlier litigation were also dismissed.

20. Once Sulochana Ammal had worked out her right under Ex.A1 in a partition suit and had taken delivery of 1 acre 16 cents, her right stood crystallised to that extent. The plaintiff claims only through Sulochana Ammal. He cannot claim a better or larger title than what she had.



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21. Ex.A3 partition deed dated 17.05.1990 also cannot enlarge the plaintiff's title. A partition deed among members of one branch can divide only the property available to that branch. It cannot create title over property which did not belong to that branch. Therefore, even if Ex.A3 refers to the suit property, it can operate only to the extent of the title that Sulochana Ammal and her branch had, namely 1 acre 16 cents.

22. Ex.A2 patta and Ex.A4 kist receipts also do not advance the plaintiff's case. Revenue records may show possession or enjoyment. They do not create title. They cannot override a civil court decree and delivery proceedings. If the civil court record shows that Sulochana Ammal obtained only 1 acre 16 cents, a later revenue entry for a larger extent cannot enlarge her title.

23. The argument that Exs.B1 and B2 are merely ministerial records cannot be accepted in the facts of this case. They are not relied on as independent documents of title. They are relied on to show the result of the earlier partition suit and the delivery taken by Sulochana Ammal



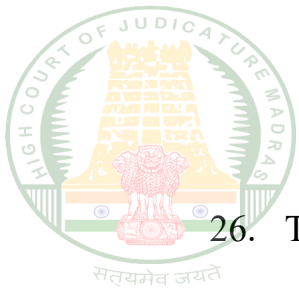
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herself. They directly relate to the very source of title now relied on by the plaintiff.

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24. The plaintiff's contention that the sons of Pethu Reddiar had no right after Ex.A1 proceeds on the assumption that Ex.A1 conveyed the entire suit extent absolutely to Sulochana Ammal. That assumption has not been accepted by either Court below. The concurrent finding is that Sulochana Ammal obtained only an undivided right under Ex.A1 and that her separated share was later fixed as 1 acre 16 cents in O.S.No.145 of 1962.

25. After Sulochana Ammal's 1 acre 16 cents was carved out, the remaining western extent was treated as belonging to the other branch. Ex.B3 partition deed dated 31.05.1978 divided that remaining extent among Vaithilinga Reddiar, Srinivasa Reddiar and Ramakrishna Reddiar. The defendant thereafter purchased under Exs.B5 to B7. The Courts below have accepted this chain of title. This finding is based on documents and cannot be called perverse.

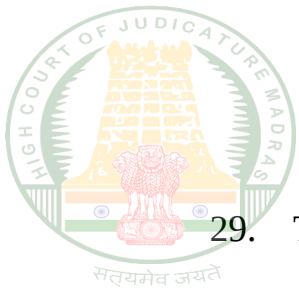


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26. The fact that Exs.B5 to B7 were executed in 1999, shortly before the suit, does not by itself make them invalid. The relevant question is whether the vendors had title to convey. Once the Courts below found that Sulochana Ammal's title was confined to 1 acre 16 cents and that the remaining extent belonged to the other branch, the sale deeds in favour of the defendant cannot be rejected merely because they were executed close to the suit.

27. This is a Second Appeal under Section 100 CPC. This Court cannot reappreciate the entire evidence as if it is a first appeal. Interference is possible only when the concurrent findings are contrary to law, based on no evidence, or are perverse. Here, the findings of the Courts below are based on Ex.A1, Ex.B1, Ex.B2, Ex.B3 and Exs.B5 to B7. The view taken by the Courts below is a possible and legally sustainable view.

28. The appellant also invoked Section 103 CPC. That provision does not assist him. There is no need for this Court to determine any fresh factual issue. The necessary facts have already been found by both Courts on the basis of documentary evidence.



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29. The plaintiff is entitled to declaration and permanent injunction only in respect of 1 acre 16 cents in Survey No.156/1B, old Survey No.156/1, as held by the Courts below. His claim in respect of the remaining extent stands dismissed.

30. In the result, this Second Appeal is dismissed. The judgment and decree dated 30.07.2010 passed in A.S.No.18 of 2008 by the Subordinate Judge Court, Kallakurichi, confirming the judgment and decree dated 26.06.2006 passed in O.S.No.488 of 1999 by the III Additional District Munsif Court, Kallakurichi, are confirmed.

31. In the circumstances of the case, there shall be no order as to costs in this Second Appeal. Consequently, connected miscellaneous petitions, if any, stand closed.

09.06.2026

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Index: Yes/No

Speaking Order /Non-speaking order

Neutral citation: Yes/No



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DR. A.D. MARIA CLETE, J

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To

- 1.The Subordinate Court at Kallakurichi.
2. The III Additional District Munsif Court, Kallakurichi.
3. The Section Officer,
V.R.Records,
Madras High Court.

PRE DELIVERY JUDGMENT
S.A. No. 898 of 2014

09.06.2026