



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-06-2026

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THE HON'BLE MR.JUSTICE S. SOUNTHAR

SA No. 372 of 2026 and
CMP.No.12528 and 12530 of 2026

Mrs.Pappa

..Appellant(s)

Vs

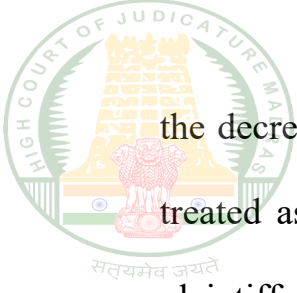
Raman Chetty Kattalai
Rep by its Executive Officer,
Arulmigu Marundeeswarar Temple,
Thiruvannmiyur,
Chennai 041.

..Respondent(s)

Prayer: Second appeal is filed under Section 100 of Code of Civil Procedure, 1908, praying to set aside the Judgement and Decree dated 24.03.2026 of the VI Additional Judge, City Civil Court, Chennai in AS.No.329 of 2023 confirming the Judgement and Decree dated 30.10.2023 of the VIII Assistant Judge, City Civil Court, Chennai in OS.No.349 of 2014 and decree the suit in OS.No.349 of 2014 as prayed for the plaint as amended by order dated 30.09.2016 in IA.No.7220 of 2016 in OS No.349 of 2014.

For Appellant(s): M/s. S. Geetha
for Mr.P.RajnishFor Respondent(s): Mr.A.K.Sriram, Senior Counsel
for M/s.A.S. Kailasam Associates**JUDGMENT**

The unsuccessful plaintiff is the appellant. She filed a suit seeking declaration that a decree passed in OS.No.9698 of 1990 which was merged with



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the decree passed by this court in SA.No.56 of 2005 dated 02.11.2011 shall be treated as illegal, invalid, non-est in the eyes of law and non-binding on the plaintiff. She also sought for a declaration that the defendant has nothing to do with the occupation of the suit property and also for a consequential injunction restraining the defendant from interfering with her peaceful possession and enjoyment of the suit property. 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 appellant/ plaintiff has come before this Court by way of second appeal.

2. According to the appellant/plaintiff, she was inducted as a tenant of the suit property in the year 1960 by one T.K.Radhakrishnan Iyer. Later in the year 1975, the administration of the suit property was taken over by the respondent temple. It is further stated that originally she was paying Rs.30/- per month as rent to the above said T.K.Radhakrishnan Iyer and enjoyed the property for well over 53 years. Subsequently, the plaintiff has been paying rent to the respondent temple all along till the filing of the suit in the year 1990. It is further stated that the respondent temple filed a suit for recovery of suit property against the plaintiff in O.S.No.9698 of 1990 and the same was decreed with a condition that if the plaintiff complied with the conditions in the judgment, she may be permitted to continue in the suit property and on her failure, she should vacate the suit property. The plaintiff, who was defendant in the said suit, filed first appeal in A.S.No.91 of 2003. The first appellate court passed a decree



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granting six months time for the plaintiff to vacate the premises. The decree for ejectment passed by the first appellate court was affirmed by this court in SA.No.56 of 2005 by judgment dated 02.11.2011. It is further stated by the plaintiff that she entered into a tenancy arrangement with the respondent temple based on the representation made by the Executive Officer and also suffered by a decree of recovery of possession. It is further stated that the suit property has been classified as 'Gramanatham' by Revenue Department and the said fact came to the knowledge of the plaintiff only after receipt of notice from the Revenue Department in Form No.1. It is further stated that fraud vitiates all judicial acts. Therefore, the earlier decree obtained by respondent temple is vitiated by fraud.

3. The respondent temple filed a written statement and resisted the suit on the ground that the plaintiff suffered a decree for recovery of possession in the earlier litigation and hence, she is not entitled to maintain the present suit. It was submitted that the plaintiff admitted the title of the respondent temple and entered into a tenancy arrangement and paid rent for several years and in such circumstances, the present stand taken by the plaintiff denying the title of the respondent temple is untenable in law. It is further stated that the averments made in the plaint do not indicate any fraud on the part of the respondent temple and hence, the prayer sought for in the present plaint is unsustainable.

4. It is further stated that the suit property is an absolute property of the "Kattalai" attached to the temple and the same has been in possession and

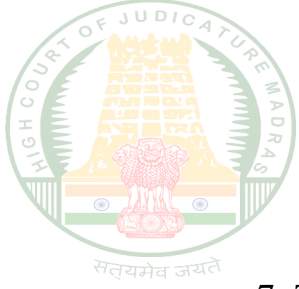


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enjoyment of the temple. It is also stated that Gramanatham land never vest with the Government and hence, the case of the plaintiff based on said plea is not maintainable and therefore, the temple shall be treated as owner. It is also stated that the respondent temple filed an execution petition seeking delivery of the property and in order to frustrate the same, the present suit has been filed. On these pleadings, the defendant sought for dismissal of the suit.

5. Before the trial court, the plaintiff was examined as PW1 and one G.Karthigairajan was examined as PW2. On behalf of the plaintiff, 20 documents were marked as Ex.A1 to Ex.A20. The Executive Officer of the defendant temple was examined as DW1. On behalf of the defendant temple, two documents were marked as Ex.B1 and Ex.B2. The Head Surveyor was examined as CW1 and two documents were marked through him as Ex.C1 and Ex.C2.

6. On appreciation of oral and documentary evidence available on record, the trial court came to the conclusion that the documents filed on behalf of the plaintiff were not relating to the suit property and the plaintiff has not established the allegation made by her in the plaint and accordingly, dismissed the suit. Aggrieved by the same, the plaintiff preferred an appeal in AS.No. 329 of 2023 on the file of VI Additional City Civil Court, Chennai. The first appellate court affirmed the findings of the trial court. Aggrieved by the concurrent findings, the plaintiff has come before this court.



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7. The learned counsel for the appellant vehemently contended that in the earlier suit, the plaintiff admitted the title of the respondent temple erroneously and only after receipt of notice from the Revenue Department in Form No. 1, the plaintiff came to know that the suit property has been classified as 'Gramanatham' and the same belongs to the Government. Therefore, the learned counsel submitted that the earlier decree was obtained by the respondent by making a misrepresentation as if it was the owner. Therefore, the same is liable to be declared as non-est in the eye of law.

8. Ex.A1 is the plaint in earlier suit in OS.No.9698 of 1990. The judgment and decree passed in earlier suit has been marked as Ex.A2. Exhibit A5 is the judgment passed in second appeal in SA.No.56 of 2005 confirming the judgment and decree passed by the first appellate court in the earlier suit. A perusal of these documents would indicate that the earlier suit was filed by the respondent temple seeking recovery of possession of the suit property based on landlord-tenant relationship. The plaintiff herein filed a written statement accepting the landlord-tenant relationship. The extract of the written statement in Exhibit A2 would indicate that the plaintiff pleaded that she was inducted as a tenant in the suit property by one T.K.Radhakrishnan Iyer, who was in charge of the respondent Kattalai at that point of time and he collected rent up to October 1971. Thereafter, the administration of the Kattalai was transferred to

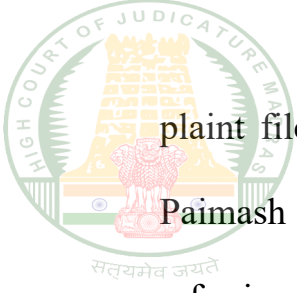


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respondent Devasthanam and from the year 1971 onwards, the plaintiff paid a rent of Rs.100/- per month till February 1976. Thereafter, the respondent Devasthanam reduced the rent to Rs.80/-. It is seen that from the year 1971 to 1990, the plaintiff paid the rent to the respondent temple. Thereafter, the above mentioned suit was filed seeking recovery of possession.

9. A perusal of Exhibit A2 would clearly establish that the plaintiff accepted the respondent temple as a landlord and paid rent to it for several years. In the earlier suit, the plaintiff has not taken any stand denying the title of the respondent temple. Further, the earlier suit was filed based on landlord-tenant relationship. The Court found that the jural relationship was admitted by the present plaintiff, who was arrayed as defendant in the earlier suit. The decree for recovery of possession was passed by the court in the said suit and the same is binding on the plaintiff. The present plaintiff never objected to the title of the respondent temple in the earlier litigation. Now, the notice issued by the Revenue Department in Form No. 1 is stated to be the cause of action for the plaintiff to form an opinion that the suit property is a 'gramanatham' belonging to the Government and hence, the respondent temple has no right over the suit property.

10. Both the courts below, by considering the exhibits marked on either side, came to the conclusion that the documents relied on by the plaintiff are relating to Paimash No.1061 and the same is not relating to Paimash Nos.1056 and 1057 in respect of which the earlier suit was filed. Though in the earlier

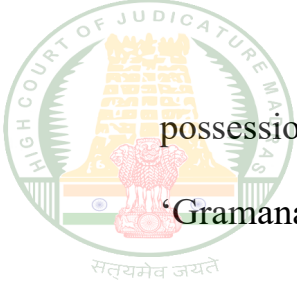


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plaint filed by the respondent temple, only door number was mentioned and Paimash number of the land has not been mentioned. The courts below, by referring to Exs.A7, A8, A9 and A10, came to the conclusion that the suit filed by the respondent temple in OS.No.9698 of 1990 was relating to Paimash Nos.1056 and 1057. Therefore, the documents relied on by the plaintiff are not relating to the subject matter of the litigation in the earlier suit. In such circumstances, the submission made by the learned counsel for the appellant is not acceptable.

11. Even assuming that the suit property is treated as a 'natham' property, it is settled law that occupied natham property will never vest with the Government as per the law laid down in the various decisions of this Court including a Full Bench of this Court in ***Kannan @ Kamatchi (died) Vs The District Collector, Dindigul and Others reported in 2026 (2) CTC 257= MANU/TN/1295/2026***. In the case on hand, the suit property is in occupation of temple through it's tenant and hence, there is no difficulty in coming to the conclusion that it is occupied natham, in case it is a natham property.

12. There are ample evidence available on record to suggest that the respondent temple had been in possession and enjoyment of the suit property through its tenant for several years. Merely because the plaintiff is in physical possession of the suit property, she cannot be treated as the owner of the same. When she entered the property as a tenant under the temple and paid rent to the temple for thirty years, the temple is deemed to have been in constructive



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possession of the property. Therefore, even assuming the suit property is a 'Gramanatham', as a person in constructive possession, temple shall be treated as owner. The said position has been rightly pointed out by the courts below and the plea raised by the plaintiff has been negatived.

13. The plaintiff sought for a declaration that the decree obtained by the respondent temple in the earlier litigation is vitiated by fraud. The allegations in the plaint do not indicate any fraud on the part of the respondent temple. As per the allegation in the plaint, she entered the suit property as a tenant under one T.K.Radhakrishnan Iyer, who was the erstwhile trustee of the Kattalai. Later, the administration of the Kattalai was transferred to the Executive Officer of the respondent temple. The plaintiff continued to be the tenant under the respondent temple by paying rent to the temple. The appellant having accepted respondent temple as landlord and paid rent for several years cannot deny the title of temple unless she openly surrenders possession to landlord. In this regard, reference may be had to decisions of Hon'ble Apex Court in ***D.Satyanarayana Vs P.Jagadish reported in 1987 (4) SCC 424*** which has been followed with approval in ***State of Andhra Pradesh and others Vs D.Raghukul Pershad (dead) by LR's and others reported in 2012 (8) SCC 584***. In such circumstances, the appellant/plaintiff has not established any fraud on the part of the respondent temple. Hence, the core argument made by the learned counsel for the appellant as if the earlier decree obtained by the respondent temple is vitiated by fraud is without any substance. I do not find any



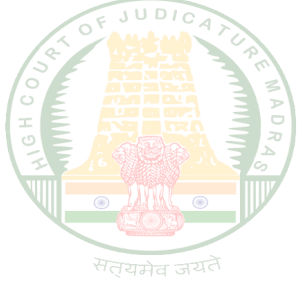
substantial question of law to interfere with the judgment and decree passed by the courts below. Accordingly, the second appeal stands dismissed by affirming the judgement and decree dated 24.03.2026 in AS.No.329 of 2023 on the file of VI Additional Judge, City Civil Court, Chennai confirming the judgement and decree dated 30.10.2023 in OS.No.349 of 2014 on the file of VIII Assistant Judge, City Civil Court, Chennai. Consequently, the connected miscellaneous petitions are closed. There shall be no order as to costs.

05-06-2026

Index: Yes
Speaking Order
Neutral Citation: Yes
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To

1. The VI Additional Judge, City Civil Court, Chennai.
2. The VIII Assistant Judge, City Civil Court, Chennai.



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S.SOUNTCHAR, J.

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