



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-04-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

**SA No. 889 of 2021
C.M.P.No.16838 of 2021**

1. Munusami
2. Radhi Devi

..Appellant(s)

Vs

1. Santhi
2. Guna
3. Lakshmi @ Sindhiya
4. Pichaimuthu
Selvam (died)
5. Venkatesan
6. Ganesan
7. Rajasekar
8. Raghu
9. Kumar
- 10.The Sub Registrar
Kaveripakkam, Nemili Taluk, Vellore District.
- 11.The District Registrar
Arakkonam, Arakkonam Taluk, Vellore
District.
- 12.The Inspector General of
Registration, Santhome, Chennai.
- 13.Santhakumari
- 14.P. Jayanthi
- 15.Kothandan

..Respondent(s)

Prayer:- Second Appeal is filed under Section 100 of Civil Procedure Code, pleaded to set aside the Judgment and decree dated 12.08.2020 made in A.S. No.27/2018 on the file of Sub Ordinate Judge, Arakkonam, by confirming the judgment and decree dated 29.06.2018 made in O.S.No.203/2006 on the file of District Munsif Court, Sholinghur by allowing the present second appeal.



For Appellant(s):
For Respondent(s):

Mr.A.Gouthaman
Mr.D.Thirumoorthy for R1 to R3
Mr.B.Tamilnidhi
Additional Government Pleader for R10 to R12
R15, R5 to R9 (Served no appearance)
R4 Vacated
R13 and 14 - Absent

JUDGMENT

The defendants 3 and 4 are appellants. The respondents 1 to 3 filed a suit for partition claiming $\frac{3}{4}$ share in the suit properties. The suit was partly decreed by the trial Court in respect of Items 1, 2, 3 and 6 to 9. Aggrieved by the same, the defendants 3 and 4 filed First Appeal and the Appellate Court affirmed the trial Court judgment. Aggrieved by the concurrent findings, the defendants 3 and 4 come before this Court.

2.The present appellants claim right over only Item No.1 of the suit property. Therefore, the Second Appeal is confined in respect of Item No.1 of the suit property.

3.According to the respondents 1 to 3 / plaintiffs the suit Item No.1 was originally belonged to one Pattu father of the plaintiffs and the first defendant. He died intestate leaving behind the plaintiffs and first defendant as his legal representatives. Therefore, the plaintiffs claim $\frac{1}{4}$ th share each ($\frac{3}{4}$ share) in Item No.1 of the suit property.



4.The appellants / defendants 3 and 4 filed a written statement and admitted purchase of suit property by above said Pattu under sale deed dated 15.08.1983. It was further pleaded by the defendants 3 and 4 that after death of Pattu the first defendant borrowed huge amount from second defendant for the purpose of celebrating the marriage of third plaintiff. Since the first defendant was unable to discharge the debt incurred by him sold the first Item of the suit property to second defendant for valid consideration on 29.05.2001. Thereafter, the fourth defendant purchased first Item of the suit property from second defendant on 22.02.2025 for valid consideration and has been in possession and enjoyment of the same exercising full ownership. It is also pleaded that the first Item of the suit property has been in possession and enjoyment of the fourth defendant and his predecessor in interest for more than statutory period openly and exclusively and hence he perfected adverse possession. On these pleadings the defendants 3 and 4 prayed for dismissal of this suit.

5.Before the trial Court, the plaintiffs 1 and 2 were examined as P.W.1 and P.W.2. On behalf of the plaintiffs, thirteen documents were marked as Ex.A1 to Ex.A13. The fourth defendant was examined as D.W.1 and two other witnesses were examined as D.W.2 and D.W.3. On behalf of defendants, eleven documents were marked as Ex.B1 to Ex.B11.



6.The trial Court on appreciation of evidence available on record came to the conclusion that plaintiffs were entitled to partition in respect of Item No.1, 2, 3 and 6 to 9 and decreed the suit by granting preliminary decree for partition.

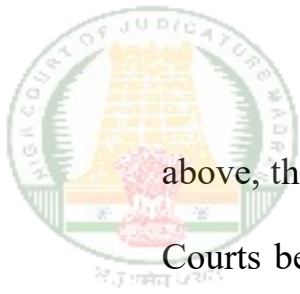
The trial Court also granted a decree declaring the sale deed dated 29.05.2001 executed by the first defendant in favour of the second defendant as null and void. The defendants 1 to 9 and 14 were directed to deliver vacant possession of the suit property to the plaintiffs. The trial Court also granted other reliefs not connected with this Second Appeal.

7.Challenging the decree passed by the trial Court, the defendants 3 and 4 filed First Appeal in A.S.No.27 of 2018 on the file of Sub Court, Arakkonam. The First Appellate Court confirmed the findings of the trial Court. Aggrieved by the same, defendants 3 and 4 have come before this Court.

8.The learned counsel appearing for the appellants / defendants 3 and 4 would submit that defendants 3 and 4 purchased the suit item 1 even prior to filing of the suit. Therefore, they are entitled to workout equity and the Courts below failed to take into consideration the equity in favour of the defendants 3 and 4.



9. It is seen from the pleadings of the parties there is no dispute with regard to the fact the suit Item No.1 which is the subject matter of the Second Appeal has been purchased by Pattu father of the plaintiffs and first defendant. He died intestate. Therefore, the plaintiffs and first defendant are entitled to $\frac{1}{4}$ share each in the suit Item No.1 left behind by him. It is the main case of the defendants 3 and 4 that after death of Pattu, first defendant borrowed amount from second defendant in order to celebrate the marriage of third plaintiff and he was unable to discharge the loan obtained by him. In such circumstances he was constrained to sell first item of the suit property to second defendant on 29.05.2001. Thereafter, fourth defendant purchased the property from second defendant on 22.02.2005. The suit has been presented by the plaintiffs on 31.02.2006. The fourth defendant purchased the suit Item No.1 only from the second defendant, who in turn purchased it from 1st defendant. Therefore, if at all, the sale deed executed by 1st defendant is valid only to the extent of first defendant's share. Since, plaintiffs 1 to 3 are not parties to the sale deed executed in favour of second defendant, the same is not binding on the plaintiffs 1 to 3. Even though, the defendants 3 and 4 pleaded adverse possession as mentioned above, the second defendant purchased the suit property only on 29.05.2001 from the first defendant and the fourth defendant purchased the property only on 22.02.2005. The suit has been filed on 31.02.2006. Therefore, the defendants 3 and 4 are not entitled to claim that they enjoyed the property exclusively for more than statutory period. In the light of the facts narrated



above, the plaintiffs are entitled to 1/4th share each in the suit Item No.1 and the Courts below rightly appreciated the legal position and passed the preliminary decree granting ¼ share each to the plaintiffs.

10.As submitted by the learned counsel appearing for the appellants, the fourth defendant purchased Item No.1 of the suit property prior to the filing of the suit. In such circumstances, he is entitled to workout his equity as against his vendor's vendor namely the first defendant. Even though in the preliminary decree, the trial Court has not mentioned anything regarding equity available to the fourth defendant, it is always open to him to raise the question of equity as against his vendor's vendor in the final decree proceedings. With this clarification, this Court concur with the findings of the First Appellate Court.

11.Accordingly, the Second Appeal stands dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

17-04-2026

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To

1. The Sub Registrar
Kaveripakkam, Nemili Tk, Vellore Dt.
2. The District Registrar
Arakkonam, Arakkonam Tk, Vellore Dt.
3. The Inspector General Of
Registration, Santhome, Chennai.



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S.SOUNTHAR, J.

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