



S.A.No.1000 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 24.04.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A.No.1000 of 2021
and C.M.P.No.18817 of 2021

1.Chellammal

2.Manimegalai

... Appellants

vs.

1.Arjunan

2.Kaliyan

3.Annamalai

4.Murugesan

Rajambal (since deceased)

5.Vijaya

6.Amudha

7.Malarkodi

8.Govindaraj

9.Elangovan

... Respondents

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the Judgment and Decree dated 12.08.2021 made in A.S.No.138 of 2019 on the file of the III Additional District and Sessions



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Judge, Cuddalore at Vridhachalam confirming the Judgment and Decree dated 04.11.2017 made in O.S.No.144 of 2001 on the file of the Additional District Munsif Court, Tittagudi in respect of the 2nd item of the suit property alone by allowing this Second Appeal.

For Appellants : Mr.S.Rajesh

For R8 : Mr.C.Arunkumar

For R1 to R7 & R9 : Not ready in notice

J U D G M E N T

The unsuccessful plaintiffs in the suit are the appellants. They filed a suit for declaration of title and injunction in respect of two items of properties. The Trial Court decreed the suit in respect of 1st item and dismissed the suit in respect of 2nd item. Aggrieved by the same, the plaintiffs preferred an appeal. The First Appellate Court affirmed the findings of the Trial Court and dismissed the appeal. Aggrieved by the concurrent findings, the plaintiffs have come before this Court.

2. Since the second appeal is confined to dismissal of the suit in respect of 2nd item of the suit properties, the facts relating to the 2nd item of suit properties alone are discussed in this second appeal.

3. According to the appellants/plaintiffs, the suit 2nd item is a Paattai Poramboke (Road Poramboke). Originally the said property was occupied



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by one Karuthan Konar, 60 years ago. He died leaving behind his only son Muthusamy Konar. The 1st plaintiff entered into Sale Agreement with the said Muthusamy Konar on 05.02.1979 and the possession of the suit Item-2 was given to the 1st plaintiff under the said Sale Agreement. Since the property was classified as a 'Paattai Poramboke', no registered document was entered into. It is further pleaded that the plaintiffs have been in possession and enjoyment of the Item-2 of suit property by raising coconut and drumstick trees. It was further pleaded that the defendants without having any manner of right over the same, attempted to interfere with the plaintiffs' possession. Hence, the above said suit was laid seeking declaration of plaintiffs' possessory title over the suit Item-2 and for injunction.

4. The defendants filed written statement and denied the claim of the plaintiffs that the suit property has been in possession and enjoyment of the plaintiffs and their predecessor-in-interest for more than 60 years. It was the specific case of the defendants that the suit property is a Paattai Poramboke leading to Karuppiah Temple. It is pleaded that all the Villagers including the defendants have been using the suit Item-2 as an access to Karuppiah Temple and hence, the plaintiffs were not entitled to maintain a suit for

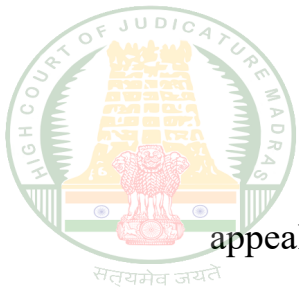


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declaration of possessory title and injunction over the suit property. It was also pleaded by the defendants that the Revenue Officials removed all the encroachments in the suit Item-2 and facilitated access to the above said Temple and the present suit had been filed by the plaintiffs without having any manner of right. On these pleadings, the defendants sought for dismissal of the suit.

5. Before the Trial Court, the 3rd plaintiff was examined as PW.1 and one Jayaraman was examined as PW.2. On behalf of the plaintiffs, 20 documents were marked as Exs.A1 to A20. The defendants 2, 3 and 11 were examined as DW.1 to DW.3 and the Deputy Block Development Officer was examined as DW.4. On behalf of the defendants, 4 documents were marked as Exs.B1 to B5. The Trial Court appointed an Advocate Commissioner and his report and plan were marked as Exs.C1 and C2. The resolution passed by the Village Panchayat has been marked as Ex.X1.

6. The Trial Court on appreciation of oral and documentary evidence available on record, came to the conclusion that the suit Item-2 was a Paattai Poramboke facilitating access to Karuppiah Temple and hence, dismissed the suit. Aggrieved by the same, the appellants/plaintiffs preferred first



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appeal in A.S.No.138 of 2019 on the file of the III Additional District cum Sessions Court, Cuddalore at Vridhachalam. The First Appellate Court affirmed the findings of the Trial Court and dismissed the appeal. Aggrieved by the concurrent findings, the plaintiffs have come before this Court.

7. The learned counsel appearing for the appellants would submit that the plaintiffs have been in possession and enjoyment of the suit property and the possession of the plaintiffs has not been disturbed by the Government Official and only the present defendants attempted to interfere with the plaintiffs' possession. Therefore, according to him, the suit was filed only against the defendants and the First Appellate Court committed an error in dismissing the suit on the ground of non-joinder of necessary parties. The learned counsel also submitted that the plaintiffs by producing various documents and evidences proved their possession over the suit property and overlooking the same, the plaintiffs have been non-suited by the First Appellate Court.

8. It is seen from the averment found in the plaint, the suit 2nd item is a Paattai Poramboke. Therefore, the Government is the owner of the said property. The appellants/plaintiffs seek declaration of their possessory title



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over the suit Item-2. The present suit filed by the plaintiffs without impleading the original owner of Item-2 of the property is not at all maintainable. The Courts below on proper appreciation of oral and documentary evidence available on record, came to the conclusion that the suit Item-2 is a Paattai Poramboke belonged to the Government and suit filed by the plaintiffs without impleading the Government, was not maintainable. In the absence of owner of the property, the plaintiffs are not entitled to seek declaration of their possessory title.

9. When it is admitted by both the parties that suit Item-2 is a Paattai Poramboke (Road Poramboke), all the residents of the Village and General Public are entitled to use it as an access. No person is entitled to occupy the same and assert right over the said road poramboke. The encroachment on the road poramboke, which is meant for public use is an objectionable encroachment and Court cannot exercise its discretion in favour of the person, who is in objectionable possession of Paattai Poramboke. The prayer for injunction is equitable remedy. This Court already came to the conclusion that the prayer for declaration of possessory title over the Pattai Poramboke cannot be maintained without impleading the original owner namely the Government. The Courts below on proper appreciation of oral



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and documentary evidence available on record, came to a conclusion that the plaintiffs were not entitled to occupy Paattai Poramboke and prevent access of the Villagers to Karuppiyah Temple. The Courts below rightly found that the plaintiffs' possession was unlawful one and hence, the same could not be protected by granting a decree for permanent injunction. I do not find any perversity in the findings rendered by the Courts below.

10. In Nutshell:-

- (i) The Second Appeal is dismissed as devoid of any substantial question of law.
- (ii) In the facts and circumstances of the case, there will be no order as to costs.
- (iii) Consequently, the connected Civil Miscellaneous Petition is closed.

24.04.2026

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

- 1.The III Additional District and Sessions Judge,
Cuddalore at Vridhachalam.
- 2.The Additional District Munsif Court, Tittagudi.

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S.SOUNTHAR, J.

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