

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON
24.03.2026**PRONOUNCED ON**
30.04.2026

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CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU**AS No. 203 of 2017**

G.Khaja Sahib
S/o.Ghouse Sahib,
No.122, Devi Nagar, Arcot Town,
Arcot Taluk, Vellore District.

..Appellant(s)

Vs

V.Jameel Ahmed
S/o.V.Abdul Sukhoor Sahib, No.26,
S.H.A.Street, Melvisharam Vill,
Wallajah Taluk, Vellore District

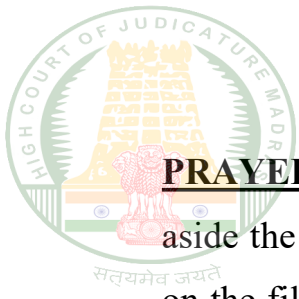
2. Malliga Banu, Sister of Jameel Ahamed
No.7/1, Usmanpet 4th Street, Melvisharam,
Ranipet District

3. V.Bashirannisa, W/o.Jameel Ahmed
No.7/1, Usmanpet 4th Street, Melvisharam,
Ranipet District

4. V.Mohamed Usama, S/o.Late Masood
Ahamed
No.7/1, Usmanpet 4th Street, Melvisharam,
Ranipet District

*(R1, Dide, RR2 to 4 are Brought on record as
Lrs of Deceased 1st Respondent Viz, V.Jameel
Ahmed, Vide Order of Court dated 14/02/2023
made in Cmp.Nos.21741, 21743 and 21744 of
2022 in As.No.203 of 2017)*

..Respondent(s)



PRAYER:- Appeal filed under Section 96 of the code of Civil Procedure, to set aside the Judgement and decree dated 12.01.2017 passed in O.S.No.13 of 2015 on the file of the II Additional District and Sessions Judge, Vellore @ Ranipet, Vellore.

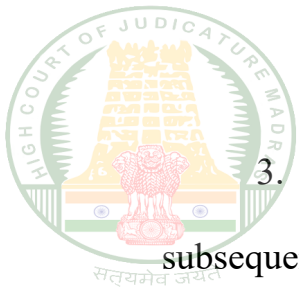
For Appellant(s): Ms.K.R.B.Dhaaranee

For Respondent(s): R1 - Died
Mr.V.Selva Perumal
for RR2 to 4

JUDGMENT

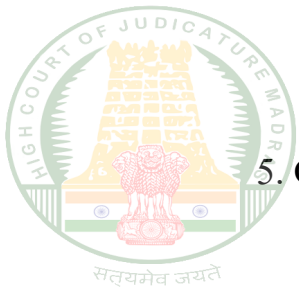
The present first appeal has been filed challenging the decree and judgement dated 12.01.2017 made in the O.S.No.13 of 2015 on the Learned Additional District and Sessions Judge, Vellore.

2. The suit was instituted by the plaintiff seeking declaration of title, mandatory injunction, permanent injunction, and damages. The case of the plaintiff is that the suit property originally belonged to one Ismail Sahib, and upon his demise, it devolved upon his legal heirs, namely Razia Begum, Ashiya Begum, Karimunisa Begum, Akbarunissa Begum, Rahimunissa Begum, and Zohara Jabin Begum. One of the daughters, Razia Begum, wife of V. Mohamed Athar Sahib, separated from the family, effected a partition of the family properties, and alienated her entire share through her power agent, thereby divesting herself of all right, title, and interest in the suit property



3. The remaining legal heirs retained a portion of the land, which they subsequently sold directly to the plaintiff under a registered sale deed dated 14.06.2011, thereby conferring absolute title upon him. It is further stated that due to the expansion of the National Highways, several adjacent lands, including those held by third parties such as Girivasan and Ghouse Sahib, were acquired by the Government, leaving them only with a right to claim compensation and no subsisting right over the property. According to the plaintiff, the defendant, claiming through his father Ghouse Sahib, attempted to unlawfully encroach upon the suit property and had manipulated revenue and registration records, particularly by altering boundary descriptions in his sale deed, with an intention to usurp the plaintiff's land. Hence, the plaintiff sought declaration of title and consequential reliefs.

4. The defendant, in his written statement, denied the allegations and contended that he had validly acquired 2200 sq. ft. in Plot No. 1B under a registered sale deed dated 11.11.2010 executed by the power agent of the original owners, and that he had further consolidated his title through a release deed executed by the legal heirs of his father. The defendant asserted that he is in lawful possession and enjoyment of the property, supported by tax receipts and other records, and that there is no encroachment as alleged by the plaintiff. He further contended that the allegations of manipulation of documents are false and that the suit is not maintainable either in law or on facts.



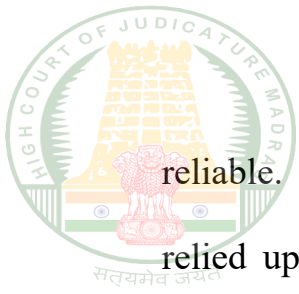
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5. On the aforesaid pleadings the following issues were framed

- a) *Whether the plaintiff is entitled for Declaration and Recovery of Possession?*
- b) *Whether the defendant has put up construction by encroaching over the plaintiff's property?*
- c) *Whether the plaintiff is entitled for mandatory injunction?*
- d) *Whether the plaintiff is entitled for permanent injunction?*
- e) *Whether the plaintiff is entitled for damages?*
- f) *To what relief?*

On the Plaintiffs' side, PW1 to PW 4 was examined as witnesses and documents Ex. A1 to Ex. A11 were marked. On the Defendants' side, DW1 was examined and documents Ex. B1 to Ex. B7 along with court exhibits Ex.C1 to Ex.C2 were marked.

6. On Issue (a), the Trial Court, upon the appreciation of oral and documentary evidence, held that the plaintiff established a valid and lawful title over the suit property. The evidence of PW1 was found to be consistent with the pleadings, while the testimony of PW2 affirmed the execution of the sale in favour of the plaintiff. The plaintiff relied upon Ex.A4 – registered sale deed dated 14.06.2011, along with antecedent title documents such as Ex.A1 – Power of Attorney and Ex.A3 and Ex.A8 – prior sale deeds, which together formed a continuous chain of title. The Court found these documents to be cogent and



reliable. In contrast, although the defendant examined himself as DW1 and relied upon Ex.B4 – sale deed dated 11.11.2010, Ex.B5 – release deed, and other supporting documents, the Court observed that these exhibits did not establish a title, particularly in view of inconsistencies in boundary descriptions. Accordingly, the issue was answered holding that the plaintiff is entitled to declaration and recovery of possession to the extent of encroachment. The Court further found that the defendant had failed to establish a superior title. Consequently, the issue was answered in favour of the plaintiff, holding that he is entitled to declaration and, to the extent of encroachment, recovery of possession.

7. In respect of Issue (b), the Trial Court placed substantial reliance on the Advocate Commissioner's report and sketch (Ex.C1 and Ex.C2), which identified the suit property and clearly indicated encroachment by the defendant. This conclusion was further supported by the oral evidence of PW2, who pointed out discrepancies in the defendant's boundary recitals, and PW3 (Panchayat President), whose testimony disclosed irregularities in the grant of approval for the defendant's construction. The Court also noted that the defendant's documents, including Ex.B4 and related records lacked clarity in defining the exact boundaries of the property, Therefore the Court concluded that the construction put up by the defendant extended into the plaintiff's property, and thus answered this issue in favour of the plaintiff.

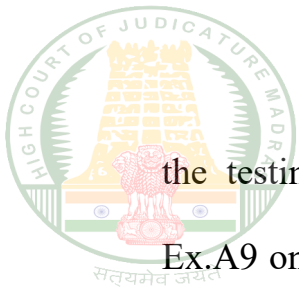


8.Regarding Issue (c), the Trial Court held that once encroachment is established through reliable evidence such as Ex.C1 and Ex.C2, the plaintiff is entitled to a mandatory injunction. The Court observed that the defendant had proceeded with construction despite objections and without establishing clear title over the encroached portion. Accordingly, the Court granted a decree directing removal of the unlawful construction.

9.With respect to Issue (d), relating to permanent injunction, the Trial Court held that the plaintiff's title and possession, as evidenced by Ex.A4 and supporting documents, stood duly proved. In view of the interference established through the Commissioner's report and oral evidence, the Court granted permanent injunction restraining the defendant from further interference with the plaintiff's peaceful possession and enjoyment of the suit property.

10. Insofar as Issue (e) is concerned, the Trial Court considered the claim for damages based on the nature of encroachment and the evidence adduced. While no separate documentary proof of specific quantum was extensively produced, the Court held that the plaintiff is entitled to appropriate relief commensurate with the wrongful encroachment.

11.Finally, on Issue (f), as to the relief to which the plaintiff is entitled, the Trial Court, on a holistic appreciation of the oral evidence of PW1 to PW4,



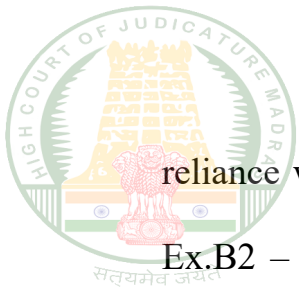
the testimony of DW1, and the documentary exhibits marked as Ex.A1 to Ex.A9 on the side of the plaintiff, Ex.B1 to Ex.B6 on the side of the defendant, and Ex.C1 and Ex.C2 (Commissioner's report and sketch), decreed the suit in favour of the plaintiff.

12. In view of these findings, the Court held that the plaintiffs were entitled to the relief of declaration of title, recovery of possession of the encroached portion, mandatory injunction for removal of construction, permanent injunction restraining interference, and allowed the suit in its entirety, against which the defendants have filed the present Appeal Suit.

13. Heard Ms. K.R.B. Dhaaranee the learned counsel for the appellants and Mr. V. Selva Perumal the learned counsel for the respondents.

14. The learned counsel for the appellant/defendant assailed the judgment of the Trial Court contending that the findings are contrary to the evidence on record of both oral and documentary evidence.

15. It was submitted that the appellants/defendant had established their lawful title and possession through Ex.B4 – registered sale deed dated 11.11.2010 and Ex.B5 – release deed executed by the legal heirs of Ghouse Sahib, which collectively consolidate their title over the property. Further



reliance was placed on Ex.B3 – earlier title deed and revenue records such as Ex.B2 – tax receipts and Ex.B1 – Panchayat receipt, which, according to the appellants, demonstrate continuous possession and enjoyment.

16. The appellants/defendants contended that the Trial Court erred in discarding these exhibits on the ground of alleged discrepancies in boundary descriptions without undertaking a proper comparison with the respondent's documents, particularly Ex.A4 sale deed dated 14.06.2011. It was further argued that the Trial Court placed undue reliance on the Advocate Commissioner's report and sketch Ex.C1 and Ex.C2, which are only corroborative in nature and cannot form the sole basis for concluding encroachment or determining title.

17. The appellants/defendants also challenged the reliance placed on the oral evidence of PW2, contending that being the vendor of the plaintiff, his testimony is interested and ought to have been scrutinized with greater caution, whereas the evidence of DW1 has not been given due weight. It was further contended that PW3's evidence regarding Panchayat approval does not discredit the appellant's title but only relates to procedural aspects of construction.

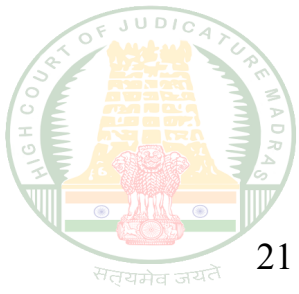
18. The appellants/defendants submitted that the respondent had admitted knowledge of the construction of the Kalyana Mandapam as early as 2011 and



had even lodged a complaint, which was not pursued subsequently on the alleged ground of ill health, a plea that is neither convincing nor legally sustainable and amounts to acquiescence.

19. It was further submitted by the appellants/defendants that the Trial Court failed to consider that the appellant's title traces back to an earlier purchase in the year 2000 and, through antecedent documents, to the year 1975, thereby establishing a continuous chain of title, which has not been duly appreciated.

20. The learned counsel for the appellant further contended that the evidence of PW2 clearly discloses that the partition suit in O.S. No.33 of 2007 is still pending, and therefore, any transaction entered into during such pendency is hit by the doctrine of *lis pendens*. It was also pointed out that Ex.A9, which is the Power of Attorney purportedly executed by Razia Begum authorising her agent to deal with the suit property and forming a crucial link in the respondent's chain of title, itself raises serious doubts as to its validity and execution. In the absence of clear and satisfactory proof regarding the authority under Ex.A9, the very foundation of the respondent's title becomes questionable.



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21 .In such circumstances, it was contended that the respondent/plaintiff does not possess a clear and marketable title to the suit property and consequently lacks the locus standi to maintain the present suit against the appellant. It was further submitted that the Trial Court has failed to consider these vital aspects, namely the legal effect of the pending litigation and the infirmities surrounding Ex.A9. Such non-consideration of material evidence and settled legal principles, according to the appellant, vitiates the findings of the Trial Court and renders the impugned judgment and decree liable to be set aside.

22. *Per contra*, the learned counsel for the respondent/plaintiff supported the judgment of the Trial Court and contended that the findings are well-reasoned and based on a proper appreciation of evidence.

23. It was submitted that the plaintiff had clearly established his title through Ex.A4 registered sale deed dated 14.06.2011, supported by antecedent documents such as Ex.A1, Ex.A3, and Ex.A8, which together form a consistent chain of title.

24. The respondent argued that the evidence of PW2 is crucial and reliable, as it directly traces the title and clarifies the discrepancies in boundary



descriptions relied upon by the appellant/defendant. It was further contended that the appellant's documents, particularly Ex.B4 and Ex.B5, do not establish a valid title over the disputed portion, especially in light of inconsistencies in boundaries and absence of clear demarcation.

25. The respondent placed strong reliance on the Advocate Commissioner's report and sketch Ex.C1 and Ex.C2, which clearly establish the factum of encroachment, and submitted that the same is corroborated by the oral evidence on record. It was also contended that the appellant had proceeded with construction despite objections, thereby disentitling him from any equitable relief.

26. The respondent therefore contended that the Trial Court has rightly granted declaration, recovery of possession, and consequential injunctions, and that the decree does not warrant interference by the appellate court.

27. I have considered the submissions made by the learned counsel for the respective parties & perused the materials available on record, on which basis the following issues arise for the consideration

- a) Issue No.1 – Whether the judgment and decree of the Trial Court holding that the plaintiff has established title and is entitled to declaration and recovery of possession warrant interference?

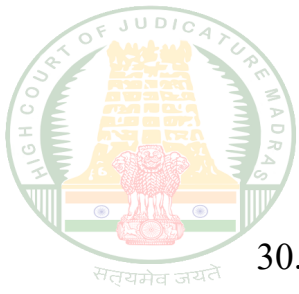


b) Issue No.2 –Whether the finding of the Trial Court that the defendant has encroached upon the suit property and the consequential grant of mandatory injunction call for interference?

c) Issue No.3 – Whether the grant of permanent injunction and other consequential reliefs, including damages, is sustainable?

28. Issue 1, The respondent's claim of title rests on Ex.A4 registered sale deed dated 14.06.2011, supported by antecedent documents Ex.A1, Ex.A3, and Ex.A8, disclose a consistent chain of title. The oral evidence of PW1 and PW2 corroborates the execution and validity of these documents. On the other hand, the appellants rely upon Ex.B4 sale deed and Ex.B5 release deed, along with earlier documents, to assert his title, A comparative analysis reveals inconsistencies in boundary descriptions and lack of clarity as to the precise extent of the property claimed by the appellants.

29. The contention that the appellant's title traces back to earlier transactions has not been substantiated with cogent evidence relating to the disputed portion. The Trial Court, in accepting the plaintiff/respondent's title as superior, has not committed any misappreciation of evidence. Accordingly, this Court finds no reason to interfere with the finding that the plaintiff/ respondent is entitled to declaration and recovery of possession to the extent of encroachment.

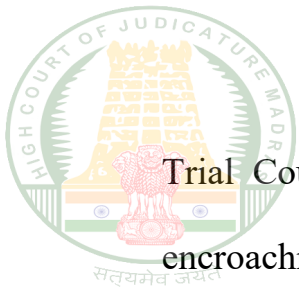


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30. On Issue 2, the finding of encroachment recorded by the Trial Court is based on the Advocate Commissioner's report and sketch Ex.C1 and Ex.C2, which identify the suit property and indicate that the construction put up by the appellants extends into the respondent's land. This is further supported by the oral evidence of PW2 and the discrepancies noted in the appellants' boundary recitals. Though it is contended that the Commissioner's report is only corroborative, in the present case, it stands duly supported by other evidence on record.

31. The plea of acquiescence raised by the appellants, on the ground that the respondent was aware of the construction in 2011, cannot defeat a lawful claim, particularly when encroachment is established. The Trial Court has rightly exercised its discretion in granting mandatory injunction for removal of the encroachment. This Court finds no illegality or infirmity in the said finding warranting interference.

32. On Issue 3, In view of the findings on title and encroachment, the grant of permanent injunction restraining the appellants from further interference with the respondent's possession is a natural and consequential relief. The Trial Court has rightly held that the respondent is entitled to protection of his possession based on established title. As regards damages, the



Trial Court has granted appropriate relief in accordance with the nature of encroachment and the evidence on record. No material has been placed before this Court to demonstrate that such exercise of discretion is either arbitrary or excessive. Hence, the grant of permanent injunction and other consequential reliefs does not call for interfere

33. For the aforesaid reason the court finds no merits in this Appeal suit & the same is accordingly dismissed. No order as to costs.

30.04.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

- 1.The Additional District and Sessions Judge – II,
Vellore @ Ranipet, Vellore.
- 2.The Section Officer,
VR Section,
Madras High Court,
Chennai.



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K.KUMARESH BABU, J.

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30.04.2026