



WEB COPY

A.S.No.850 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2026

CORAM

THE HONOURABLE MR . JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

A.S.No.850 of 2025

&

C.M.P.No.19846 of 2025

M.Vignesh

... Appellant

Versus

1. Thavasimuthu

2. M.Arul Jeya Suba

... Respondents

First Appeal filed under Section 96 read with Order 41 of Rule 1 of CPC to set aside the decree and judgment made in O.S.No.4331 of 2022 dated 18.06.2025 by the XIX Additional City Civil Court at Chennai District.

For Appellant : Mr.K.Sankaran
for Mr.C.Venkatesan

For Respondents : Mr.Anupam Raghuraman
and Mr.I.Rollence Samuel
for R1 and R2



A.S.No.850 of 2025

JUDGMENT

WEB COPY (Judgment of the Court was made by **N.SATHISH KUMAR, J.**)

Challenging the judgment and decree of the XIX Additional City Civil Court, Chennai District dated 18.06.2025 in O.S.No.4331 of 2022 directing the defendant to handover vacant possession of the suit property, the present appeal has been filed by the unsuccessful defendant.

2. For the sake of convenience, the parties shall be referred to as per their ranks before this trial Court.

3. Brief facts of the case is as follows:

The plaintiffs purchased the suit property from one Senthilkumar by virtue of a sale deed dated 02.08.2019 bearing Document No.2351 of 2019. At the time of purchase itself, the vendor has introduced the defendant to the plaintiffs and informed that defendant is a tenant and assured that the defendant would vacate the premises within two months prior to the purchase of the suit property. However, even after the purchase, the defendant refused to vacate the premises. The plaintiffs also gave a chance to the defendant to vacate the suit property within a period of six months by

2/10



A.S.No.850 of 2025

paying a concession monthly rent of Rs.12,000/- per month. According to the plaintiffs, though the defendant agreed to pay the rent, he paid the rent only for the first month and thereafter, neither he paid the rent nor vacated the premises and hence, the plaintiffs issued a legal notice on 17.07.2020, but the same has been refused and returned. Thereafter, a police complaint was also lodged. Even thereafter the defendant has not vacated the premises and hence the plaintiffs have filed the present suit for recovery of possession.

4. It is the case of the defendant that the defendant is a grandson of late Rathina Naicker and Maragathammal and said Maragathammal purchased the property out of her own earnings under the Reconveyance Deed bearing Document No.18/1998 dated 04.01.1988. Thereafter, said Maragathammal and her legal heirs have sold the western side of the suit property to one Tamilselvan and the legal heirs of Maragathammal were in possession and enjoyment of remaining extent of 1457 sq.ft. After the death of said Maragathammal on 06.06.1993, an extent of 600 sq.ft has been sold by the legal heirs to one Nagarajan. Out the sale proceeds, the defendant settled his brothers and sister a sum of Rs.1,00,000/- each and they executed a Release Deed dated 16.06.2023 for an extent of 857 sq.ft, which is the suit



A.S.No.850 of 2025

property, in favour of Kandasamy. It is the further contention of the defendant that the said Kandasamy got married to mother of the defendant viz., Lalitha on 25.03.1983 and out of the wedlock, the defendant and two other children were born. Later, the defendant's father developed illicit intimacy with another woman and therefore, there was a quarrel and defendant's father used to quarrel with his mother and he deserted his family in the year 2001, but allowed the defendant to continue in the property and hence, he resisted the suit.

5. Based on the above pleadings, the following issues were framed:

- (i) Whether the suit property is properly valued.*
- (ii) Whether the necessary court fee was paid by the plaintiffs.*
- (iii) Whether the previous owner Senthilkumar is a necessary party to this suit.*
- (iv) Whether the plaintiffs are the title holder of the suit property.*
- (v) Whether the defendant to be directed to vacate and hand over possession of the suit property to the plaintiffs as prayed for.*
- (vi) Whether the plaintiffs are entitled for future damages at the rate of Rs.12,000/- per month for the use and occupation of the suit property as prayed for.*



A.S.No.850 of 2025

(vii) *To what other relief, the plaintiffs are entitled?*

WEB COPY

6. On the side of the plaintiffs, first plaintiff was examined as PW1 and Exs.A1 to A11 were marked and on the side of the defendant, DWs 1 to 3 were examined and Exs.B1 to B19 were marked.

7. The trial Court, after considering the oral and documentary evidence, granted a decree in favour of the plaintiffs for recovery of possession. However, in respect of damages, the suit was dismissed. Challenging the judgment and decree of the trial Court, the defendant has preferred the present appeal.

8. The main contention of the learned counsel for the appellant/defendant is that the plaintiffs purchased the suit property under Ex.A7 on 02.08.2019 from one Senthilkumar. According to the learned counsel, the recitals in Ex.A7 would indicate that the plaintiffs have taken vacant possession of the property and however, they filed a suit for recovery of possession. Hence, the suit is not maintainable. It is his further contention that the defendant is also having right in the suit property and hence, he filed a suit in O.S.No.8827 of 2011 for declaration and the said suit was dismissed for default and subsequently, the defendant filed an application for



A.S.No.850 of 2025

restoration with a condone delay petition and the same is pending.

According to the appellant/defendant, the documents clearly show that they are in possession of the property and therefore, the plaintiff is not entitled for the relief of recovery of possession.

9. The learned counsel appearing for the plaintiffs would submit that the plaintiffs have purchased the property and therefore, they have acquired title to the property. Even assuming that the defendant is in possession of the property, in the absence of pleading with regard to adverse possession or independent right of the defendant is established through oral and documentry evidence, being the paramount title holder, the plaintiffs are entitled for recovery of possession and hence, prayed for dismissal of the appeal.

10. The points that arises for consideration in this appeal are:

- i) Whether the plaintiffs have proved their title to the suit property?
- ii) Whether the plaintiffs are entitled to recover possession of the property?
- iii) What other reliefs the parties are entitled?

11. The suit has been filed for recovery of possession with damages.



A.S.No.850 of 2025

The suit has been laid mainly on the basis of the sale deed executed in favour of the plaintiffs by one Senthilkumar under Ex.A7 dated 02.08.2019.

According to the plaintiffs, even before the purchase, their vendor has introduced the defendant and assured that the defendant would vacate the property within two months and the defendant also agreed to pay a sum of Rs.12,000/- per month as rent. However, the defendant went against the assurance and paid the rent only for the first month and thereafter he did not pay the rent. Hence, the present suit has been filed for recovery of possession with damages.

12. The main defence set up by the defendant is that the property was originally purchased by Maragathammal, wife of Rathina Naicker and after her life time, her legal heirs were in possession of the property. They sold an extent 600 sq.ft to one Nagarajan in the year 2003 and in respect of the remaining extent of property, all other legal heirs released their rights in favour of one Kandasamy, who is stated to be the father the defendant and this has been clearly pleaded in the written statement itself. It is relevant to note that said Kandasamy became absolute owner of the property by virtue of the release deed dated 16.06.2003 bearing Document No.1543/2003 executed by other brothers and sister. It is relevant to note that under



A.S.No.850 of 2025

Ex.B11, the said Kandasamy sold the property to one Senthilkumar. The recitals in Ex.B11 clearly prove the stand taken by the defendant that there was release deed in favour of one Kandasamy, who in turn sold the property to Senthilkumar and said Senthilkumar in turn sold the property to the plaintiffs. Therefore, the very stand of the defendant that the property originally belonged to Maragathammal, on her death, the property devolved upon their children and later, there was a Release Deed in favour of one of the legal heirs of Maragathammal viz., Kandasamy stand clearly established. The said R. Kandasamy, who is the father of the defendant, one of the legal heirs of Maragathammal, become the absolute owner of the property and he has sold the property to plaintiffs under Ex.A7. Therefore, the title clearly vests with the plaintiffs and the evidence of DW1 also clearly shows that except the tax receipts in respect of the house, no other document has been marked to establish that he is in possession of the property. Mere possession of the property without any title will not vest any right over the property.

13. It is not the case of the defendant that he has perfected title to the property and he is possession of the property adverse to the real owner. In such view of the matter, as the title of the plaintiffs is clearly established, we do not find any infirmity in the judgment of the trial Court in decreeing the



A.S.No.850 of 2025

suit for recovery of possession. Accordingly, all the points are answered in favour of the respondents / plaintiffs.

In the result, the judgment and decree of the trial Court dated 18.06.2025 in O.S.No.4331 of 2022 is confirmed and the appeal suit is dismissed with costs. At this stage, the learned counsel for the appellant/defendant pleaded that two months time may be granted for vacating the suit premises. This submission of appellant/defendant is taken note of and the Executing Court may consider granting time in the light of the request made before this Court. Consequently, the connected miscellaneous petition is closed.

[N.S.K.,J.] [R.S.V.,J.]
06.01.2026

Index: Yes/No
Neutral Citation: Yes
gpa

To

XIX Additional City Civil Court
Chennai



WEB COPY



A.S.No.850 of 2025
N.SATHISH KUMAR, J.,
AND
R. SAKTHIVEL, J.,

gpa

A.S.No.850 of 2025

06.01.2026