



WEB COPY

SA No. 320 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-04-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

SA No. 320 of 2020

R.Manjula

D/o Late Ranganatha Gounder@ Mannakatti
Gounder, No.1, Krishnan Pady, Chennai-600050

..Appellant(s)

Vs

1. M.MUNIYAMMAL(died)
W/o Moorthy, No.1/28 Opposite To Nurse
Quarters, Santhaimettu Street,
Maruthanadu Village, Vandavasi Tk,
Thiruvannamalai District
2. M. Arumugam, S/o. Moorthy, No.1/28, Opp
To Nurse Quarters, Senthaimettu Street,
Maruthanadu Village, Vandavasi Taluk,
Thiruvannamalai District.

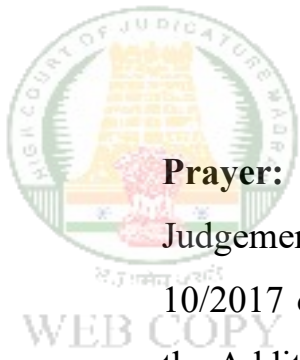
**R2 Brought On Record As L.Rs of The
deceased sole respondent Vide Order Dated
17/08/2022 made in CMP No.3813/2021 in
Sa. 320/2020.**

**Devi, d/o Muniyammal (died),
w/o Balasubramani**

3. Dhandayuthapani, s/o Balasubramani
4. Manikandan, s/o Balasubramani

**R1 died, R2 to R4 are L.Rs of R1.
R2 already on record. R3 and R4 are
brought on record as L.Rs of deceased R1
vide court
order dated 07.12.2022 made in
CMP No.17732 of2022 in S.A.No.320/2022.**

..Respondent(s)



Prayer: Second Appeal filed under Section 100 of CPC to set aside the Judgement and decree passed by the Subordinate Judge, Gingee in AS No. 10/2017 dated on 02/03/2019, confirming the judgement and decree passed by the Additional District Munsif, Gingee in OS No. 401/2006 dated 24/06/2014.

For Appellant(s): Mr. K.Raghuraman

For Respondent(s): Mr. K.P.P. Raja Raja Cholan For R1

No appearance for R2.

JUDGMENT

The unsuccessful 5th plaintiff is the appellant herein.

2. The father of the appellant Ranganatha Gounder and his legal heirs, including the appellant, filed a suit for declaration of title and for consequential injunction against the deceased first respondent/sole defendant, namely Muniammal. The said suit was dismissed by the trial court. The appeal filed by the appellant in A.S.No.10 of 2017 was also dismissed by the first appellate court, affirming the findings of the trial court. Aggrieved by the concurrent findings of the courts below, the appellant/5th plaintiff has filed the present second appeal.



3. It was the case of the plaintiffs that the first plaintiff, Ranganatha Gounder had two wives, and the 2nd plaintiff is his first wife and the 3rd plaintiff born to them. The plaintiffs 4 and 5 were born to Ranganatha Gounder through his 2nd wife Chinna Kuzhanthaiammal. The defendant is wife of one Moorthy, who born to Ranganatha Gounder through his second wife Chinna Kuzhanthaiammal.

4. The further case of the plaintiffs is that the suit property was purchased in the name of deceased Moorthy by the funds of the first plaintiff and the suit property has been in possession and enjoyment of the first plaintiff for a long time and neither the said Moorthy nor the defendant had any right over the suit property. It was also stated by the plaintiffs that after the death of Moorthy, the defendant, who lived separately elsewhere, came to the suit property and attempted to interfere with the possession of the plaintiffs and hence, they filed the suit for declaration of title and injunction.

5. The defendant filed a written statement and denied the plaint averment as if the suit property was purchased in the name of Moorthy by the funds of first plaintiff. It was also asserted by the defendant that the suit property was purchased by her husband Moorthy out of his own funds and the first plaintiff had led a wavered life, and her husband Moorthy alone had maintained the family and celebrated the marriage of his sisters, namely the plaintiffs 4 and 5.



It was also pleaded by the defendant that out of his own savings, the suit property was purchased by her husband Moorthy in his name and he enjoyed the suit property till his life time and after his death, the defendant has been in enjoyment and possession of the property. On these pleadings, the defendant sought for dismissal of the suit.

6. Before the Trial Court, on the side of the plaintiffs, the 3rd and 5th plaintiffs were examined as PW1 and PW2 and 4 documents were marked as Ex.A1 to Ex.A4. On behalf of the sole defendant, she examined himself as DW1 and 8 documents were marked as Ex.B1 to Ex.B8.

7. The Trial court on appreciation of oral and documentary evidence, came to the conclusion that the suit property was purchased in the name of Moorthy and hence, the plaintiffs could not claim any right over the suit property and as a necessary consequence, dismissed the suit. Aggrieved by the same, the 5th plaintiff filed an appeal in A.S.No.10 of 2017 on the file of Subordinate Judge, Gingee and first appellate court also dismissed the appeal, affirming the findings of the trial court. Challenging the concurrent findings of the courts below, the 5th plaintiff has filed the present second appeal.

8. The learned counsel for the appellant/5th defendant would submit that the suit property was purchased by the first plaintiff out of his own funds in the



name of Moorthy, husband of the defendant. He further submitted that the first plaintiff produced original title documents from his custody and he also produced the kist receipts, paid in his name for the suit property. In such circumstances, according to him, the courts below committed a serious error by holding that the suit property was purchased by the defendant's husband Moorthy.

9. It is seen from the pleadings of the parties that the defendant and her husband deceased Moorthy are having children, however, they have not been impleaded parties/defendants in the suit. In the written statement, the plea of non joinder of necessary parties was specifically raised. The plaintiffs sought declaration of title and permanent injunction against the sole defendant and in such circumstances, the other legal heirs of said Moorthy should have been impleaded as parties/defendants. Mere filing of suit against the wife of deceased Moorthy, without impleading the children of Moorthy is not acceptable. Therefore, the suit is bad for non joinder of necessary parties.

10. On the merits of the matter, it is seen from the records that Ex.A1 sale deed in respect of the suit property stands in the name of Moorthy, husband of the defendant. Ex.B2 and Ex.B3 are the kist receipts stand in the name of Moorthy and the said Ex.B2 and Ex.B3 have been filed by the defendant from her own custody. Therefore, it is clear that after purchase of the suit property in



the name of Moorthy, the revenue records have been mutated in his name and he also paid property tax to the government in his name. In such circumstances, the contention raised by the plaintiffs as if the first plaintiff enjoyed the property right from the date of purchase is not at all acceptable. Merely because the first plaintiff produced the title documents from his custody, we cannot presume that the suit property was purchased by him. Further, the first plaintiff is none other than the father of Moorthy and on account of close relationship, he could have got the custody of documents, and hence, the first plaintiff cannot claim that he purchased the suit property in the name of his son Moorthy. If really the first plaintiff purchased the suit property for the benefit of his family, there was no occasion for the said Moorthy to change the revenue records in his name, who was a junior member of the family. The tax receipts Ex.A2 and Ex.A4 produced by the plaintiffs came into exist only after the death of Moorthy. Therefore, it is clear that till the life time of said Moorthy, he had been enjoying the property by paying necessary tax in his name. After the death of Moorthy, the first plaintiff paid tax in his name and the same will not defeat the right of the legal heirs of deceased Moorthy.

11. The plaintiffs have not examined any independent witness to prove their contentions that the first plaintiff provided funds for purchase of the suit property. Further, the PW1 (3rd plaintiff), in his evidence categorically admitted that the first plaintiff led a wayward life and he had not taken care of his 2nd



wife and her son Moorthy and the said Moorthy alone, out of his own savings, performed the marriage of his sisters, namely Pachiyammal and Manjula.

Therefore, the plea raised by the defendant in her written statement that the first plaintiff led a wayward life and he did not maintain the family of the deceased Moorthy as the head of the family has been categorically admitted by PW1. Taking into consideration the vital admission made by the PW1, and also the other material evidence on record, the courts below came to the conclusion that the suit property belonged to Moorthy and the first plaintiff could not claim any right over the same. The said factual conclusion reached by the courts below are based on proper appreciation of evidence available on record and I do not find any perversity in the said conclusion. Therefore, I find no substantial question of law arising for consideration in the second appeal.

12. Accordingly, the second appeal stands dismissed, affirming the findings of the courts below. There shall be no order as to costs.

27-04-2026

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

MST

To

1. The Subordinate Judge, Gingee.
2. The Additional District Munsif, Gingee.



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S.SOUNTHAR, J.

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