



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-06-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

SA No. 386 of 2026

Chandrasekar,
Rep by his Power of Attorney Agent,
Mr.R.Gopikrishnan,
S/o. Raghava Reddiar,
No. 37/31, Vellala Street,
Kodambakkam, Chennai-600 024.

..Appellant(s)

Vs

1. T.C.Umashankar
2. Mrs.Angammal
3. Raghava Reddy
4. Rajeswari
5. M/s.Lakshmi Brick Industries,
Rep by its Sole Proprietor,
Kothiambakkam Village,
Vellavedu Post, Poonamallee Taluk.

6. Megavannan
7. Veeraraghavan
8. Balu
9. Avandhiammal

..Respondent(s)

Prayer : Second appeal is filed under Section 100 of Code of Civil Procedure, 1908, praying to allow the appeal by setting aside the Judgment and Decree in A.S.No.47 of 2016 dated 31.01.2020, on the file of the Learned Subordinate Judge at Poonamallee, confirming the Judgment and Decree in O.S.No.229 of 2001, dated 15.03.2016 on the file of the Learned Principal District Munsif Court, Poonamalle.

For Appellant(s):

M.V.Seshachari



JUDGMENT

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The unsuccessful 1st defendant is the appellant. The first respondent herein filed a suit for declaration of title and injunction and delivery of possession. The suit was decreed by the trial court and the findings of the trial court were affirmed by the first appellate court. Aggrieved by the concurrent findings, the 1st defendant has come before this court by way of this second appeal.

2. According to the first respondent/plaintiff, the suit property with an extent of 6 acres 43 cents in Survey Number.119/1 in Sithukadu Madura Kothiyambakkam village was ancestral properties of one P.S.Panduranga Mudaliar and the revenue records stood in his name. He executed a settlement deed dated 05-04-1960 in favour of his mother-in-law/ plaintiff's mother, Swarnambal under Ex.A1. Later, the other legal representatives of Swarnambal namely the siblings of the plaintiff executed a release deed in favour of plaintiff on 04-10-1973. Thus, the plaintiff became absolute owner of the suit property and he has been in possession and enjoyment of the same. It is the further case of the plaintiff that he visited US in connection with his professional work and entrusted the management of the suit property with his sister namely T.C. Vanajatchi Pandurangan. She was managing the suit property with the help of her adopted son namely P.Lakshmi Narayanan. The said Vanajatchi Pandurangan and P.Lakshmi Narayanan employed one Lakshmana Reddiar to



look after the suit properties. The plaintiff acquired knowledge about the act of illegal excavation of sand and mud by defendants 3 to 5 and hence, a police complaint was lodged against them on 20.06.2000. It is further stated that one Balaraman claimed 20 cents in the suit properties and hence, the plaintiff filed a suit in OS.No.301 of 1993 on the file of District Munsif Court, Poonamalle against Purushothama Pillai and Ragava Reddy and the same was decreed. It is also stated that the first defendant filed a suit in OS.No.348 of 2000 on the file of Principal District Munsif, Poonamalle against the plaintiff and he had taken a stand that Lakshmana Reddiar was the owner of the property and he executed a Will in his favour. It is the specific case of the plaintiff that above said Lakshmana Reddiar was not having any right over the suit property and the Will executed by him would not convey any right to the first defendant. The plaintiff by asserting title over the suit property and denying the right claimed by the defendants filed instant suit seeking declaration of title and recovery of possession. The plaintiff also sought for permanent injunction restraining the defendants from excavating sand in the suit property and caused damage to the same.

3. The contesting defendants filed a written statement and resisted the suit by denying the right of the plaintiff over the suit property. It was the case of the defendants that 3.12 acres of land in suit Survey No.119/1A was belonged to Lakshmana Reddiar and he executed a registered Will in favour of first defendant on 10-02-1992. Later, he died during April 1992. After his death, the



Will came into force and the first defendant has been in possession and enjoyment of the suit property and the plaintiff has no right over the same. On these pleadings, the defendants sought for dismissal of the suit.

4. Before the trial court, the plaintiff was examined as PW1 and on his behalf, 11 documents were marked as Ex.A1 to Ex.A11. The Power Agent of the first defendant was examined as DW1. A Junior Assistant working in the Office of Sub-Registrar, Poonamallee was examined as DW2. The third defendant was examined as DW3. A Revenue Assistant from the Office of the Tahsildar, Poonamallee was examined as DW4. A Junior Assistant from the Office of the Tahsildar, Poonamallee was examined as DW5. On behalf of the defendants, 8 documents were marked as Ex.B1 to Ex.B8. Apart from these documents, Ex.X1 to Ex.X5 were marked through official witnesses.

5. The trial court, on appreciation of oral and documentary evidence available on record, came to the conclusion that the plaintiff was entitled to declaration of title and recovery of possession and hence, decreed the suit. Aggrieved by the same, the first defendant filed an appeal in A.S.No.47 of 2016 on the file of Subordinate Judge, Poonamallee. The first appellate court affirmed the findings of the trial court. Aggrieved by the concurrent findings, the first defendant has come before this court.

6. The learned counsel for the appellant/first defendant submitted that the suit property was originally owned by Lakshmana Reddiar and he executed a Will under Exhibit B1 dated 10-2-1992 bequeathing the suit property in favour



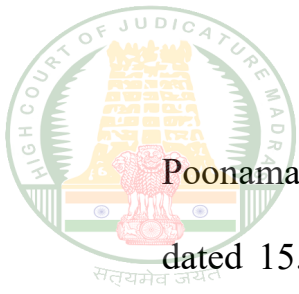
of first defendant. After death of testator, the Will came into effect and the first defendant had been in possession and enjoyment of the same. The learned counsel submitted that the courts below, without considering the Will relied on by the first defendant and other documents produced by the defendants, erroneously decreed the suit filed by the plaintiff.

7. It is the case of the plaintiff that the suit property was the ancestral property of one P.S.Panduranga Mudaliar and he executed a settlement deed in favour of plaintiff's mother namely Swarnambal, under Exhibit A1 dated 05.04.1960. It is his further case that other legal representatives of Swarnambal ie., the siblings of the plaintiff executed a release deed on 04-10-1973 under Exhibit A3 releasing their share in the suit property. Ex.A1 and Ex.A3 were dated 05-04-1960 and 04-10-1973 respectively and the plaintiff successfully traced his title through registered documents for nearly 41 years immediately preceding the date of filing of the suit. On the other hand, the first defendant relied on the Will executed by one Lakshmana Reddiar dated 10-02-1992 marked as Exhibit B1. The Will relied on by the first defendant was just 8 years prior to filing of the suit. However, absolutely there is no evidence available on record to suggest what was the right available to Lakshmana Reddiar over the suit property. In fact, the plaintiff pleaded Lakshmana Reddiar was only a caretaker of the suit property and he had no right over the same. In the absence of any evidence to establish any semblance of right of Lakshmana Reddiar, the defendants cannot resist the suit filed by the plaintiff, only based on the Will



relied on by them. Both the courts below, on proper appreciation of documentary evidence available on record, came to the conclusion that the plaintiff established his right over the suit property and the first defendant failed to prove his alleged right over the suit property.

8. When the title of the plaintiff is established, as a necessary consequence, he is entitled to possession of the suit property unless the defendants are able to establish adverse possession or any special relationship with the plaintiff to resist the prayer for recovery of possession. The defendant has not pleaded adverse possession. He has not established any special relationship like lessee or mortgagee to resist the prayer for recovery of possession. In such circumstances, both the courts below were justified in decreeing the suit declaring the title of the plaintiff and granting consequential relief of recovery of possession. When the suit property was declared to be the property of the plaintiff, the defendants are not entitled to commit act of waste by excavating the earth. Therefore, the courts below were also justified in granting a decree for permanent injunction restraining the defendants from excavating sand in the suit property. I do not find any legal error in the findings reached by the courts below and the same is based on proper appreciation of evidence available on record. The appellant/ first defendant has not made out any substantial question of law for consideration. Accordingly, the second appeal stands dismissed by affirming the judgment and decree passed in A.S.No.47 of 2016 dated 31.01.2020 on the file of Subordinate Judge,



Poonamallee confirming the judgment and decree passed in O.S.No.229 of 2001 dated 15.03.2016 on the file of Principal District Munsif Court, Poonamalle.

There shall be no order as to costs.

12-06-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

1. The Subordinate Judge, Poonamallee.
2. The Principal District Munsif Court, Poonamalle.



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S.SOUNTHAR, J.

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