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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-10-2026

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

SA No. 54 of 2026
and
CMP.No.1739 of 2026

CNR:{HCMA012594962025}

1. M.Rangasamy
S/o.Mara Naicker, No.37, bharathi
Nagar, Goundanaikenpalayam,
Tiruppur

2. R. Vignesh
S/o. Rangasamy, No.37, Bharathi
Nagar, Goundanaickenpalayam,
Tiruppur.

3. Jothilakshmi
W/o. Rangasamy, No.37, Bharathi
Nagar, Goundanaickenpalayam,
Tiruppur.

Appellant(s)

Vs

1. Mara Naicker (Died) 1. M.P. Muthu
S/o.Palanisami Naicker, No.1,
Selvalakshmi Nagar Pirivu, M.S.Nagar,
Kongu Main Road, Tiruppur-7

2.Rangammal
W/o. Late. Mara Naicker, No.37,
Bharathi Nagar,
Goundanaickenpalayam, Tiruppur.

3.Rajendran

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S/o. Late. Mara Naicker, D.No.12/13,
M.S. Nagar, 5th Street, Tiruppur Dt.

Respondent(s)

PRAYER

Second Appeal filed under Section 100 of Code of Civil Procedure prays to set aside the judgement and decree dated 02-04-2025 passed in AS.No.77 of 2019 on the file of the Spl. Court for Trial of Cases under SC/ST (POA) Act, Tiruppur reversing the Judgment and decree dt. 22.03.2018 made in OS No.372/2011 on the file of the Additional Subordinate Court, Tiruppur.

For Appellant(s): MR.Arun FOR
MR.M.Guruprasad

For Respondent(s): Mr.G.Mutharasu For R1
R-3 - No Appearance
R2 - No Such Person

JUDGEMENT

The appellant has filed this appeal to set aside the Judgement and Decree dated 02-04-2025 passed in AS.No.77 of 2019 on the file of the Special Court for Trial of Cases under SC/ST (POA) Act, Tiruppur reversing the Judgment and decree dated 22.03.2018 made in OS No.372/2011 on the file of the Additional Subordinate Court, Tiruppur.

2. For the sake of convenience, the parties herein are referred to as they were ranked in the suit.

3. Challenging the reversal findings of the first appellate Court, the defendant has preferred the present Second Appeal.

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4. Before the trial Court, the first respondent/plaintiff instituted a suit seeking the relief of specific performance, contending that the first defendant, being the owner of the suit property, entered into a sale agreement dated 04.09.2009 for a sale consideration of Rs.1,30,000/-. Under the said agreement, the first defendant agreed to execute the sale deed within two years from the date of the agreement, upon receipt of the balance sale consideration of Rs.20,000/-. It is the further case of the plaintiff that the first defendant subsequently executed a settlement deed in favour of his son on 06.12.2009 and thereafter, the property was sold to the third and fourth defendants. Hence, the plaintiff instituted the suit for specific performance.

5. The first defendant filed a written statement, and the second defendant also filed a written statement disputing the sale agreement. However, neither of them entered the witness box to adduce evidence. After framing the necessary issues and considering the oral and documentary evidence available on record, the trial Court dismissed the suit. The trial Court held that the period of two years stipulated in the sale agreement was unusually long, particularly considering the meagre balance sale consideration of Rs.20,000/-, and that no satisfactory explanation had been offered for fixing such a long period. The Court further observed that the plaintiff had not deposited the balance sale consideration, which, according to the trial Court, indicated that the plaintiff

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was not ready and willing to perform his part of the contract. The trial Court also found that the evidence of P.W.2 was unreliable, observing that he was a friend of the sixth defendant and a close associate of the plaintiff. Accordingly, the suit was dismissed.

6. Aggrieved by the judgment and decree of the trial Court, the plaintiff preferred an appeal before the first appellate Court. The first appellate Court reversed the findings of the trial Court and allowed the appeal. In doing so, the first appellate Court relied upon the written statement filed by the first defendant, observing that the first defendant had admitted the execution of the sale agreement. On that basis, the first appellate Court granted the relief of specific performance. Challenging the said reversal findings, the present Second Appeal has been preferred.

7. The learned counsel appearing for the appellants contended that the plaintiff and the sixth defendant are co-brothers and that, with a view to grabbing the suit property, they had created an unregistered sale agreement after coming to know of the settlement deed executed by the father in the year 2009. He further contended that the suit was instituted in the year 2011 and that, pursuant to the settlement deed, the second defendant acquired possession of the property and subsequently settled the same in favour of his son. The learned

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counsel submitted that, owing to a lack of communication with the counsel who appeared earlier, the appellant was unable to effectively prosecute the matter before the Courts below. Hence, the appellant sought an opportunity to substantiate his defence.

8. The learned counsel for the respondent opposed the said contention, pointing out that the appellants had not raised any such allegation before the first appellate Court or initiated any complaint before the Bar Council of India regarding the alleged lack of communication or professional misconduct on the part of the earlier counsel. It was therefore contended that such a plea could not be entertained at this stage of the proceedings.

9. Admittedly, the second defendant filed a written statement disputing the genuineness of the sale agreement but did not enter the witness box to substantiate his defence. The first defendant also filed a written statement but did not adduce oral evidence. Nevertheless, the witnesses were subjected to cross-examination. The circumstances of the case give rise to a possibility that the defendants were unable to effectively present their case owing to a lack of communication with their counsel. It is also relevant to note that the settlement deed was executed in the year 2009, prior to the institution of the suit in 2011. These circumstances, together with the defence raised by the defendants

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disputing the genuineness of the sale agreement, warrant an opportunity for the parties to establish their respective cases by adducing evidence.

10. Though the first appellate Court reversed the findings of the trial Court and granted the relief of specific performance, the genuineness of the sale agreement and the rival claims of the parties require proper consideration on the basis of oral and documentary evidence. Besides plaintiff is bound to prove his case to avail such remedy. In the interests of justice, this Court is of the view that the parties should be afforded one more opportunity to substantiate their respective claims and defences. Accordingly, this Court is inclined to set aside the judgments and decrees of the Courts below and remand the matter to the trial Court for fresh consideration.

11. The learned counsel appearing for the respondents pointed out that the litigation has been pending for nearly 15 years and that the plaintiff is presently aged about 65 years. Considering the prolonged pendency of the litigation and the need to balance the interests of both parties, this Court is of the view that the appellants must be directed to pay costs to the plaintiff as a condition for remand.

12. Accordingly, the appellants are directed to pay a sum of Rs.1,25,000/- (Rupees One Lakh Twenty-Five Thousand only) to the plaintiff

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towards costs within a period of four weeks from the date of receipt of a copy of this order.

13. The matter is remanded to the trial Court for fresh consideration. The trial Court shall frame appropriate issues afresh, afford both parties a reasonable opportunity to adduce oral and documentary evidence, and dispose of the suit on its own merits, in accordance with law, within a period of four months from the date of receipt of a copy of this order. The trial Court shall decide the matter uninfluenced by any of the observations made in this order or by the findings rendered by the Courts below.

14. In view of the above directions, the Second Appeal is disposed of. Consequently, the connected miscellaneous petition is closed. No costs.

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

1.The Additional Subordinate Judge,
Tiruppur.

2.The Special Court for Trial of Cases
under SC/ST (POA) Act, Tiruppur

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T.V.THAMILSELVI J.

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