



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-01-2026

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

SA No. 267 of 2019

1. Mr.K.Madhavaramanujam(died)
S/o Koorathalwar Naidu, Elakurichi
Village, Ariyalur Taluk, Ariyalur
District

2.M. Suresh
S/o. Late K.Madhavaramanujam, No.
431/1, Keezha Street, Elakurichi Post,
Thirumanur via, Ariyalur Taluk,
Ariyalur District.

3.M. Rani
W/o. Late K.Madhavaramanujam, No.
431/1, Keezha Street, Elakurichi Post,
Thirumanur via, Ariyalur Taluk,
Ariyalur District

4.V. Rekha
W/o. Venkatesh, D/o. Late
K.Madhavaramanujam, Sri Vanni
Vinayaga Spinning Mills Pvt. Ltd,
Melapatti, Illayarasa Pandal Post,
Kovilpatti, Thoothukudi District.
SOLE APPELLANT DIED, A2 TO 4
ARE BROUGHT ON RECORD AS
LRS OF THE DECEASED SOLE
APPELLANT VIDE COURT
ORDER DATED 25/08/2025 MADE
IN CMP.NOS.20063,20066 AND
20067 OF 2025 IN SA.NO.267 OF
2019(KGTJ)

Appellant(s)



Vs

1. Mrs.Rajeswari
W/o Govindaraju, Elakurichi Village,
Ariyalur Taluk, Ariyalur District

Respondent(s)

PRAYER : Second Appeal filed under section 100 of Code of Civil Procedure to set aside the judgment and decree passed in AS No.114 of 2012 on the file of the Principal District Judge, Ariyalur, dated 15-03-2014 confirming the judgment and decree passed in OS No.484 of 2004 on the file of the District Munsif Court, Ariyalur dated 24-07-2009.

For Appellant(s): No Appearance

For Respondent(s): Mr.D.Kanagasundaram
for Mr.M.V Venkateseshan

ORDER

Challenging the judgment and decree passed in AS No.114 of 2012 on the file of the Principal District Court, Ariyalur, dated 15-03-2014 confirming the judgment and decree passed in OS No.484 of 2004 on the file of the District Munsif Court, Ariyalur dated 24-07-2009, the present second appeal has been filed.

2. The respondent/plaintiff had filed a suit in O.S.No.484 of 2004 before the District Munsif Court, Ariyalur for recovery of possession and for damages.



The Trial Court vide Judgment dated 24.07.2009, decreed the suit for recovery of possession and directed the deceased 1st appellant/defendant to vacate the suit property within a period of 3 months and dismissed the suit for damages.

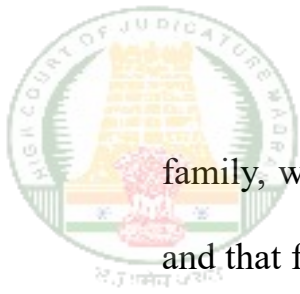
Aggrieved over the said judgment of trial Court, deceased 1st appellant/defendant had filed an Appeal Suit in A.S.No.114 of 2012 and the said appeal was dismissed by 1st Appellate Court vide Judgment dated 15.03.2014. Challenging the concurrent findings of Courts below, deceased 1st appellant/defendant has preferred the present Second Appeal before this Court.

3. Brief facts leading to filing of the suit is as follows :

The case of the plaintiff is that she is the absolute owner of the property and she had constructed a house with her own funds. The defendant, who is the brother of the husband of the plaintiff, was permitted to reside in the suit property in the year 1994 by the plaintiff and the defendant promised to vacate the suit property after he constructed a house of his own. As the defendant started damaging the property and non compliance of the oral demand of the plaintiff, after issuing notice, the present suit for recovery of possession, damages and mesne profits has been filed by the plaintiff.

4. Brief facts in the Written statement is as follows :

The case of the defendant is that there is a joint family business in the



family, which was run with the assistance of plaintiff's husband and defendant and that from joint family income, the suit site was purchased in the name of the plaintiff and the house was constructed and the property was treated as a joint family property. It is his further case that under a family arrangement the first floor and the appurtenant backyard with bathroom and bore well were allotted to the defendant in which he is in exclusive possession and enjoyment since construction.

5. On the basis of the above pleading, the trial Court had framed the following issues :

1. Whether the plaintiff is in possession of suit property?
2. Whether the plaintiff is entitled for the relief claimed in the plaint?
3. To what other relief?

6. During the course of trial, on the side of the plaintiff, P.W.1 to P.W.3 were examined and Ex.A1 to A11 were marked. On the side of the defendant, D.W.1 to D.W.3 were examined and Ex.B1 to Ex.B.10 were marked. Apart from that Ex.X.1 and Ex.X.2 were also marked.



7. After conclusion of trial, the trial Court decreed the suit for recovery of possession and dismissed the suit with regard to mesne profit. On the appeal preferred by the defendant, the first appellate Court had dismissed the appeal confirming the judgment and decree of the trial Court. Hence, the defendant had preferred this Second appeal, challenging the concurrent findings of the Courts below.

8. For the sake of convenient discussion in the Second Appeal, the parties are referred as per their rank in the plaint.

9. When the matter is taken up today, there is no representation for the appellants. During the pendency of the appeal, the defendant died and his legal representatives, viz, respondents 2 to 4, have been brought on record as per the Order of this Court in CrI.M.P.No.20063, 20066 and 20067 of 2025 dated 25.08.2025.

10. The relationship between the parties is not in dispute. Admittedly, the plaintiff is the owner of the suit property. The contention of the learned counsel for the plaintiff is that the defendant is a permissive occupier in the suit property and there is an oral agreement between the plaintiff and the defendant that the defendant agreed to vacate the property after he constructs his own house. In support of the contention of the plaintiff, she had filed Ex.A.10 sale

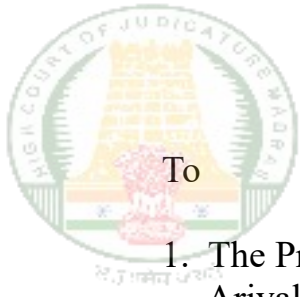


deed by which she had purchased the suit property. Though it is contended by the learned counsel for the defendant that there was a joint family business in the family and the suit property was purchased out of the joint family income, no documents have been filed to prove the same. Further, the alleged family arrangement contended by the defendant has also not been proved in the manner known to law. Hence, the Courts below have rightly decreed the suit in favour of the plaintiff for recovery of possession and there is no reason to interfere with the judgments of the Courts. Hence, this Court is of the view there is no substantial question of law involved in this Second Appeal. Hence, this Second Appeal is liable to be dismissed.

11. In the result, this Second Appeal is dismissed. The appellants are granted five months time to vacate and hand over the possession to the respondent, failing which the respondent is at liberty to proceed the execution proceedings against the appellant. No costs.

23-01-2026

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



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To

1. The Principal District Judge,
Ariyalur,
2. The District Munsif,
Ariyalur



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T.V.THAMILSELVI J.

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