



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 18-03-2026**

CORAM

**THE HON'BLE MR.JUSTICE S. SOUNTHAR**

**SA No. 231 of 2026**

S.Mani, S/o. Shanmuga Sundaram,  
No.91, Melaveethi,  
Marakkanam Town Panchayat,  
Marakkanam TK, Villupuram District.

..Appellant(s)

Vs

S.Mannatha Pillai, S/o. Soma Sundaram Pillai,  
No.96, Mela Veethi,  
Marakkanam Town Panchayat,  
Marakkanam TK, Villupuram Dist.

..Respondent(s)

Prayer: Second Appeal filed under Section 100 of CPC to set aside the Judgement and Decree passed by the Additional Subordinate Judge, Tindivanam in A.S.No.34 of 2023 dated 10.09.2025, confirming the Judgement and Decree passed in O.S.No.90 of 2017 dated 10.08.2023 on the file of Additional District Munsif Court, Tindivanam incharge of Principal District Munsif Court Tindivanam.

For Appellant(s):

Mr. S.Mani , party in person



## **JUDGMENT**

The unsuccessful plaintiff is the appellant herein. He filed a suit for declaration of title with alternative prayer for declaration that the suit property is a common pathway and the said suit was dismissed by the Trial Court. The first appeal filed by the appellant/plaintiff was also dismissed, confirming the findings of the Trial Court. Aggrieved by the same, the plaintiff has come before this court.

2. According to the plaintiff, the suit property was settled in his favour by one Danalakshmi Ammal under a settlement deed of the year 1968 and the defendant without having any semblance of right over the same, had encroached upon the suit property and put up construction. In the plaint averments, it was claimed that the suit property was a public pathway and the defendant encroached a portion of the same.

3. The defendant filed a written statement and denied the right and alleged possession of the plaintiff over the suit property. It was the case of the defendant that the suit property and other properties originally belonged to one Subramania Pillai and he bequeathed the same in favour of his wives Amirthammal and Danalakshmi under a registered Will dated 30.07.1925. It is further stated by the defendant that, after the death of Subramania Pillai, the



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said Amirthammal and Danalakshi divided the suit property and other properties, in which, the suit property and remaining extent were allotted to the share of Amirthammal. The defendant also stated that Amirthammal bequeathed the suit property and remaining extent and also other properties in favour of his brothers Mannatha Pillai and Ganesha Pillai under a registered Will dated 02.12.1974. The said Mannatha Pillai and Ganesha Pillai orally divided the suit property as well as other properties and the suit property was allotted to the share of Mannadha Pillai. Therefore, the defendant claims right and possession over the suit property. The defendant also denied the allegation of the plaintiff as if the suit property was a common pathway. It is further stated in the written statement that the plaintiff himself admitted that the defendant put up construction in the year 1971 and therefore, the present suit filed by the plaintiff hopelessly barred by limitation.

4. Before the Trial Court, on the side of the plaintiff, the plaintiff was examined as PW1 and one Jayachandran was examined as PW2 and 4 documents were marked as Ex.A1 to Ex.A4. On the side of the defendant, nobody was examined as witness and no document was marked as exhibits.

5. The Trial Court, on appreciation of oral and documentary evidence, came to the conclusion that the plaintiff failed to establish his case and dismissed the suit. Aggrieved by the same, the plaintiff preferred first appeal in

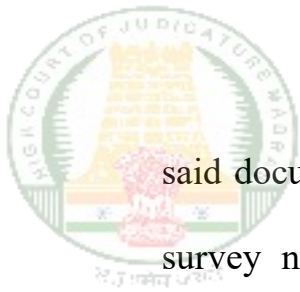


A.S.No.34 of 2023 on the file of Additional Sub Court, Tindivanam. The first appellate court also dismissed the appeal, confirming the findings of the Trial Court. Aggrieved by the same, the plaintiff has come before this court.

6. The appellant/plaintiff, who appeared in person, would submit that the courts below have not appreciated the evidence available on record in proper perspective. It is the case of the appellant that his right and possession over the suit property is proved by Ex.A1 and Ex.A3, however, the same has been overlooked by the courts below.

7. During the course of arguments, the appellant submitted Xerox copies of the Ex.A1 and Ex.A3. Ex.A1 is the settlement deed dated 17.04.1968 executed by Danalakshmi Ammal in favour of the appellant. A perusal of the same would indicate that the property settled in favour of the appellant under the said document bears natham survey Number 493/1. Therefore, Ex.A1 will not help the case of the plaintiff in any way.

8. In Ex.A3, patta produced by the appellant, survey number has been mentioned as 463/1 part, which is also differed from the suit survey number 973/4. Ex.A3 patta has been jointly issued in the name of one Mani, s/o Shanmugasundaram and Mannatha Pillai, s/o Somasundaram Pillai. Both the courts below noted the difference in the fathers' name of Mani mentioned in the



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said document. Since survey number mentioned in Ex.A3 is differed from the survey number of the suit property, we need not go into the controversy involved in fathers' name mentioned in the document. Therefore, both the documents relied on by the appellant are not related to the suit property. It is stated by the plaintiff, party in person that now, survey number of the suit property has been changed and Ex.A1 and Ex.A3 are the old documents. However, the plaintiff has not produced any document correlating the old survey number of the suit property. In such circumstances, the plaintiff failed to establish his case. Though it was claimed by the plaintiff that the suit property was a common pathway, no acceptable documentary evidence had been produced to prove the same. The plea of title over the suit property and also the plea that the suit property is a common pathway will not go together. In the plaint, there is no clarity, how the plaintiff claims right over the suit property. Both the courts below rightly appreciated the evidence available on record and came to the correct conclusion that the plaintiff has not established his right over the suit property.

9. In view of the above discussion, I do not find any question of law, much less substantial question of law arising for consideration in the second appeal to interfere with the findings of the courts below.



10. Accordingly, this second appeal is dismissed, confirming the concurrent findings of the courts below. There shall be no order as to costs.

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**18-03-2026**

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MST

To

1. The Additional Subordinate Judge, Tindivanam.
2. The Principal District Munsif, Tindivanam.



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**S.SOUNTHAR, J.**

**MST**

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