



WEB COPY

SA No. 23 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-02-2026

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

SA No. 23 of 2025 & CMP.411 of 2025

RAJU REDDIAR (DIED),
Malliga, W/o. Vijayakumar,
No.47/20, Basha Street, Choolaimedu,
Chennai - 094.

..Appellant(s)

Vs

1. R. Paranthaman
S/o. Raju Reddiar, No.47/20, Basha Street,
Choolaimedu, Chennai - 094.
2. R. Vijayan
S/o. Raju Reddiar, No.47/20, Basha Street,
Choolaimedu, Chennai - 094.
3. R. Kalpana
W/o. R. Vijayan, No.47/20, Basha Street,
Choolaimedu, Chennai - 094.
4. Padmavathi
W/o. Jeyapal, No.47/20, Basha Street,
Choolaimedu, Chennai - 094.
5. J. Usha Rani
W/o. Ajay, No.5/Kurinji Street, Vasantham
Nagar, Avadi, Chennai - 071.
6. Bhavani
W/o. Subramani, No.51, Rajeev Nagar,
Pallikuppam, Vanagaram, Chennai - 077.



7. Hemalatha
W/o. Babu, No.25, Lakshmi Nagar,
Govardhanagiri Nagar, Avadi, Chennai - 071.

8. J. Kanchana
W/o. Srinivasan, No.47/20, Basha St,
Choolaimedu, Chennai - 094.

9. Jagannathan
S/o. Jayapal, No.47/20, Basha Street,
Choolaimedu, Chennai - 094.

..Respondent(s)

Prayer : Second Appeal filed under section 100 of Code of Civil Procedure to allow the above Second appeal by setting aside the Judgment and decree made in AS No.443 of 2011 dated 21.03.2014 passed by the III Additional Judge, City Civil Court, Chennai and the Judgement and Decree dated 08.09.2011 made in OS No.1851 of 2007 on the file of VI Assistant City Civil Judge, Chennai.

For Appellant(s): Mr.M.K.Kabir, Senior Ccounsel
FOR Mr.T. Jayaraman

For Respondent(s): MR. K.S. Madhavan FOR RR1 TO 3

JUDGMENT

Challenging the reversal finding of the first appellate Court, the present Second Appeal has been filed by the plaintiff.



2. Originally, the plaintiff had filed the suit for declaration that the Koorchit dated 30.03.1992 is forged by the first and second defendants and the settlement deed dated 18.05.2005 executed in favour of the third defendant by the second defendant is ab-initio, illegal, null and void and not binding on the plaintiff and for permanent injunction restraining the defendants from encumbering the suit schedule property.

3. The plaintiff is the owner of the suit schedule property and he had purchased the suit property out of his hard earned money by a registered sale deed dated 05.09.1955. He had constructed a house in the suit property and has been residing till the date of plaint. The first and second defendants are sons of the plaintiff and the third defendant is the daughter-in-law of the plaintiff and wife of the second defendant. The second defendant with the collusion of the first defendant jointly forged a koorchit dated 30.03.1982 and thereafter, settled the property in favour of the third defendant, who is now taking all efforts to dispose and encumber the suit property. The plaintiff has executed a settlement deed in the name of his eldest son Jayabalan in respect of eastern and south east portion of the suit schedule property to an extent of 960.5 sq.ft. with common passage. The plaintiff had constructed a house in the suit property and subsequently sold out 810 sq.ft. to an in favour of Mr. Joseph Jawahar and Mrs. Sophia Indigo.



4. Denying the averments in the plaint, it is the contention of the first and second defendants that the first defendant had made arrangements for the marriage of his sister Mallika as requested by the plaintiff and as promised, the plaintiff on his own volition and interest has effected a partition koorchit dated 30.03.1982 and as per Koorchit, the schedule property was divided into 3 parts and the Koorchit was acted upon. The second defendant has approached his office for sanction of housing loan for which the plaintiff himself has sworn in affidavit stating that the purpose of koochit was effected in the favour of the first and second defendants. Hence, prayed for dismissal of the suit.

5. It is the contention of the third defendant that the suit property was settled by the second defendant in her favour and the settlement deed has also been registered. When the plaintiff tried to transfer the property, the third defendant filed a suit in O.S.No.632 of 2005 for permanent injunction and the same was granted in her favour. The suit filed by Joseph Jawahar and Sophia in O.S.No.937 of 2007 is pending adjudication. Hence, the present suit has to be dismissed.

6. On the basis of the above pleadings, the trial Court had framed the following issues :



1. Whether the plaintiff is entitled to get declaration as prayed for?

2. Whether the plaintiff is entitled to get permanent injunction as prayed for?

3. Whether the Koorchit dated 30.03.1992 is valid as alleged by the defendants?

4. To what relief?

7. During the course of trial, on the side of the plaintiff, P.W.1 and P.W.2 were examined and Ex.A1 to A4 were marked. On the side of the defendants, D.W.1 to D.W.3 were examined and Ex.B1 to Ex.B.9 were marked.

8. After conclusion of trial, the trial Court decreed the suit. On the appeal preferred by the defendants, the first appellate Court had allowed the appeal and set aside the judgment and decree of the trial Court. Hence, the plaintiff has preferred this Second appeal, challenging the reversal finding of the first appellate Court, which has been admitted on the following questions of law :

“1. Whether a document of partition [Ex.A.3] which divide the property under the terms of the document required to be properly stamped and registered for the purpose of treating the document as evidence and source of title to a party who claims to derive title under the document?



2. Whether the document of partition [Ex.A.3] which all members of the family have not joined required to be properly stamped and registered for the purpose of treating the document as evidence and source of title to a party who claims to derive Title under the Document?

3. When the case of the plaintiff is that his signatures were obtained in a document by the defendant on misrepresentation of its content, on whom the burden lies to prove that the document is a validly executed one?

9. The learned counsel appearing for the appellant would submit that first appellate Court failed to consider that partition koorchit [Ex.A.3] is not a mere partition list and hence the same is required to be properly stamped and registered and dismissed the suit without proper appreciation of evidence and hence, the same has to be set aside.

10. Whereas, it is the contention of the respondents that the first appellate Court appreciated the evidence in proper perspective and had held that having consented for the koochit and subsequently, acted in support of the koorchit and having filed an affidavit and handed over the documents and not obstructed the construction put up by the second defendant, now cannot contend that Koorchit is not binding on the plaintiff and hence, submitted that the finding of the first appellate Court needs no interference.



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11. Pending appeal, the original plaintiff died and his daughter has been impleaded as the appellant in the appeal. When the matter was taken up today, the appellant and the respondents appeared before this Court. The appellant would submit that she wants 5 ft common passage for her ingress and egress. The first respondent would submit that he is allotted only 471 sq.ft. and he raised objections in giving 5 ft. common passage to the appellant. However, he accept to give 3 ft. passage to the plaintiff in order to put an end to the litigation. After the death of the plaintiff, his daughter, namely, the present appellant is in possession of his property, which is not in dispute.

12. When this Court suggested for amicable settlement between the parties, the counsel for the appellant and the respondents have filed a memo along with topo sketch of the property and submitted that they are willing to go by the topo sketch submitted before this Court. As per the topo sketch, the appellant is now in occupation of the property to an extent of 670 sq.ft., the first defendant Paranthaman is in occupation of 471 sq.ft. and the third defendant, Kalpana Vijayan is in occupation of 782 sq.ft. and another son of the plaintiff, Jayabalan is occupation of 923 sq.ft and 3 ft. passage is given to the appellant adjacent to first respondent paranthaman plot as per topo sketch. In the topo sketch submitted by the parties, there is a common passage of 3 ft. which is



common to all the parties, including the appellant. The appellant and the respondents would submit that they would go by the topo sketch submitted by them and also filed a memo to that effect.

13. With the above terms, this Second Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed. The memo and topo sketch, dated 26.02.2026 submitted by the parties shall form part of the decree. The parties are entitled to register the decree in the manner known to law.

26-02-2026

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

To

1. The VI Assistant Judge,
City Civil Court, Chennai.
2. The III Additional Judge,
City Civil Court, Chennai.
3. The Section Officer,
VR Section, High Court, Madras.



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T.V.THAMILSELVI, J.

VRC

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