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SA No. 577 of 2
and CMP No.6747 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-01-2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

**SA No. 577 of 2018
AND
CMP No. 6747 of 2024**

The Executive Officer
Thiruvenkatanatha Perumal, And
Vaidhyanathasamy Temple, Sular.

..Appellant(s)

Vs

1. Ramasamy (Died)
S/o Kumarasamy Gounder,
4/125, Arankulam, Paruvai, Palladam.
2. Arukutty,
S/o Kumarasamy Gounder,
4/125 Arankulam, Paruvai, Palladam.
3. The Joint Commissioner.
Hindu Religious Endowment Department,
Dr.Balasundaram Road, Coimbatore.
4. The Sub Registrar,
Sub Registrar Sub Registrar Office, Sular,
Coimbatore District.
5. Eswaran
S/o. Late Ramasamy,
No.4/16, Poonguttai Thottam, Arakulam,
Paruvai, Palladam.
6. Jayalakshmi
D/o. Late Ramasamy,
No.3/63, Perumal Koil St,
Karadivavi, Palladam.



7. Padmavathi
D/o. Late Ramasamy,
No.4/167A, Mulathottam, Arakulam,
Paruvai, Palladam.

8. Senthil Kumar
S/o. Late Ramasamy,
No.4/125, Arakulam, Palladam.

(R1 died, RR5 to 8 are brought on record as
LRs of the deceased R1 vide Court order dated
07/03/2024 made in CMP No 4124 of 2024 in
SA No. 577 of 2018)

..Respondent(s)

Prayer : Second Appeal filed under Section 100 CPC, 1908, to set aside the decree and judgment made in AS. No.1/2014 dated 24/04/2018 on the file of Principal Subordinate judge, Tiruppur, reversing the decree and judgment made in OS. No.143/2011 dated 29/10/2013 on the file of District Munsif Court, Palladam.

For Appellant(s):	Mr.R.T.Doraisamy
For Respondent(s):	Mr.N.Damodaran
	for R2, R5 to R8
	Mr.M.Gurunathan
	Government Advocate
	for R3 & R4



JUDGMENT

The second appeal has been preferred as against the decree and judgment dated 24.04.2018 passed by the Principal Subordinate Court, Tiruppur, in A.S.No.1 of 2014, wherein the respondents herein have preferred the said appeal as against the decree and judgment dated 29.10.2013 passed in O.S.No.143 of 2011, on the file of the District Munsif Court, Palladam. Originally, the respondents herein have filed the suit for declaration before the Trial Court and the same was dismissed. Challenging the same, the First Appellate Court reversed the judgment of the Trial Court and decreed the suit. Aggrieved by the said decree and judgment, the present second appeal has been preferred by the second defendant.

2. For the sake of convenience, the parties are referred to as per their rank in the Trial Court and at appropriate places, their rank in the present second appeals would also be indicated.

3. The brief averments of the plaint are as follows :

The suit property originally belonged to Sreeranga Gounder and Karuppakal through registered sale deed dated 24.01.1928. After the demise of Sreeranga Gounder, the said properties were partitioned among his legal heirs and his brother Karuppa Gounder through registered Partition Deed dated 22.04.1948. The said Sreeranga Gounder had two sons namely Karuppa



Gounder and Kumarasamy Gounder. The plaintiffs are sons of Kumarasamy Gounder. As per the Partition Deed dated 22.04.1948, 'B' schedule property was allotted to Kumarasamy Gounder and the suit properties are one among the properties of the above said 'B' schedule property. After the demise of Kumarasamy Gounder, his daughters Chellammal and Rasammal have executed registered Release Deed dated 15.09.2006 in favour of their brothers Ramasamy Gounder and Arukutty Gounder, who are the plaintiffs herein. Both the plaintiffs are in joint possession and enjoyment of the suit properties by cultivating the lands. The plaintiffs have title deeds for the properties situated in S.F.No.81 and the same was sub-divided and the present survey number is 81/2. While so, when the plaintiffs applied for Encumbrance Certificate for the suit properties on 13.09.2010, they came to know that the defendants have registered their objection pertaining to the suit properties in S.F.No.81/2, 77/1C, 1H, 1F stating that the same belonged to the second defendant. The defendants 1 and 2 have no any right over the suit properties and the plaintiffs are the absolute owners of the suit properties. Therefore, the plaintiffs filed the suit for declaration as against the defendants 1 and 2 and mandatory injunction directing the third defendant to delete the entries made in the records of the Sular Sub Registrar office.



4. The brief averments of the written statement filed by the second defendant are as follows :

The suit is not maintainable in law and on facts and the plaintiffs are put to strict proof of all the allegations except those that are specifically admitted by this defendant. The plaintiffs have to prove that the suit properties to an extent of 3.24 acres belonged to them and other averments made in the plaint in respect of those properties. The plaintiffs have suppressed the material facts and with malafide intention to grab the second defendant's land, filed the suit. The plaintiffs have purchased only the properties in S.F.No.81. Originally, the suit properties and other properties were granted in favour of the temple by the Ancient Kings for day-to-day affairs of the temple. As per records maintained by the second defendant and superior authorities, the suit properties are absolutely belonged to the second defendant and he is the absolute owner of the suit properties. Originally, the second defendant was having more than 402 acres for maintaining the second defendant temple. As per the settlement proceedings the suit properties were granted in favour of the second defendant. The plaintiffs themselves admitted that the second defendant is the real owner of the suit properties. There is no cause of action for the suit and the suit is liable to be dismissed.



5. Based on the above said pleadings and after hearing both sides and perusing the records, the Trial Court framed the following issues:

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"(i) Whether the plaintiffs have got valid title and they are in lawful possession and enjoyment of the suit property ?

(ii) Whether the plaintiffs are entitled to declaration and consequential relief of permanent injunction as prayed for?

(iii) To what other reliefs the plaintiffs are entitled to ?" _

6. In order to prove the case before the Trial Court, on the side of plaintiffs, the first plaintiff has examined himself as PW1 and one another witness PW2 and marked Ex.A1 to Ex.A36. On the side of the defendants, no witnesses were examined and no documents have been marked.

7. After evaluating the oral and documentary evidences and hearing both sides, the Trial Court dismissed the suit through decree and judgment dated 29.10.2013. Aggrieved by the said decree and judgment, the plaintiffs have preferred an appeal in AS No.1 of 2014 on the file of the Principal Subordinate Court, Tiruppur, on various grounds.



8. The First Appellate Court, after hearing both sides and perusing the records, framed the following point for determination :

“ (i) Whether the plaintiffs have proved their claim of title to the suit properties?

(ii) Whether the plaintiffs are entitled to the reliefs as prayed for?

(iii) Whether the decree and the judgment of the Trial Court is liable to be set aside ?”

9. After hearing both sides and perusing the records, the First Appellate Court set aside the decree and judgment passed by the Trial Court and decreed the suit as prayed for in the plaint. Aggrieved by the said decree and judgment of the First Appellate Court, the present second appeal has been preferred by the second defendant.

10. Heard Mr.R.T.Doraisamy, learned counsel appearing for the appellant and Mr.M.Gurunathan, learned Government Advocate appearing for the respondent 3 and 4, Mr.N.Damodaran, learned counsel appearing for the respondents 2, 5 to 8.

11. The learned counsel appearing for the appellant would submit that the suit properties are the Inam properties and the said properties were given to



the temple by the Ancient Kings who ruled in the locality long back and therefore the temple is the owner of the lands measuring about 402 acres in that village and the plaintiffs attempted to encroach those properties and thereby sent a letter to the Registrar Office to protect the said temple properties. Therefore, they objected to grant decree in favour of the plaintiffs before the Trial Court. The Trial Court correctly appreciated the facts and dismissed the suit. However, the First Appellate Court considering the evidence without appreciating the facts, erroneously decreed the suit. However, during the pendency of the appeal, based on the direction of this Court they ascertained through the Joint Director, Survey Department, District Collector, Tiruppur, that the S.Nos.77 and 81 Paruvayi Village are not belonging to the temple and they are not the Inam lands issued by the Kings in favour of the temple. Therefore, prays the Court to pass appropriate orders based on the records.

12. The learned counsel appearing for the respondents would submit that the properties are under the possession and enjoyment of the plaintiffs and their predecessors from time immemorial. Originally, the suit properties were purchased by the grandparents of the plaintiffs through registered sale deed dated 24.01.1928 and thereafter, partition deed were entered into between the parties on 22.04.1948. The suit properties are under the possession and enjoyment of the plaintiffs and their predecessors. While so, the second



defendant has sent a communication to Sulur Sub Registrar Office, the third defendant not to register as documents in respect of S.Nos.77 and 81. The second respondent has no right, title, interest over the suit properties and they wrongly claiming the properties as Inam properties granted in favour of the temple. The suit properties have no way connected with the second defendant temple. Before the Trial Court, on the side of the plaintiffs they examined PW1 and PW2 and also marked Ex.A1 to Ex.A36. On the side of the defendants, they have not examined any witnesses and no documents have been marked. However, the Trial Court failed to consider the evidence adduced by the plaintiffs. Even in the absence of any evidence from the defendants the Trial Court dismissed the suit. However, the First Appellate Court correctly appreciated the facts and decreed the suit. The defendants have not filed any documents. Therefore, the First Appellate Court has granted decree based on the evidence. There is no ground to allow the second appeal. There is no substantial questions of law involved in this case. Therefore, the second appeal is liable to be dismissed.

13. This Court, at the time of admitting the second appeal, framed the following substantial questions of law :

“i. Whether the Lower Appellate Court is justified in law in decreeing the suit in respect of the suit properties containing



several items, only based on Ex.A1- Sale Deed, which does not speak about Item Nos.2 and 3 of the suit properties and specifically deals with only Item No.1 of the suit properties in respect of S.No.81/2?

ii. Whether the Lower Appellate Court is justified in reversing the judgment and decree of the Trial Court without application of mind to the evidence let in by the parties in a proper and perspective manner ?”

14. This Court heard both sides and perused the records.

15. The plaintiffs have filed the suit for declaration and permanent injunction as against the defendants. According to the plaintiffs, their predecessors purchased the properties through a registered sale deed dated 24.01.1928 and thereafter, the partition was effected between the parties through partition deed dated 22.04.1948 and thereafter, the plaintiffs both are jointly enjoying the properties without any interruption from anybody. However, the second defendant sent a letter to the third defendant not to register the case, thereby they filed the suit for declaration. Before the Trial Court, they examined PW1 and PW2 and marked Ex.A1 to Ex.A36. On the side of the defendants, they have not examined any witnesses and no documents have been marked.



The Trial Court dismissed the suit. The First Appellate Court allowed the appeal and set aside the decree and judgment passed by the Trial Court and decreed the suit. In fact before the Trial Court, the plaintiffs have examined the witnesses and marked documents. Ex.A1 is the sale deed dated 24.01.1928 and as per the sale deed the property in S.F.No.81 was purchased by the predecessors of the plaintiffs. As per Ex.A2, the said property purchased through sale deed Ex.A1 and other ancestral properties were partitioned through registered partition deed dated 22.04.1948. Further, the plaintiffs have produced the Revenue Records in the name of their predecessors. Ex.A6 / patta is for the year 1974, therefore the plaintiffs established their *prima facie case* and discharged their initial burden, however, the defendants have not produced any piece of evidence to rebut the plaintiffs side evidences. Ex.A1 and Ex.A2 are very old documents and thereby they cannot be discarded in any way. The Trial Court failed to appreciate the evidence in a proper perspective and wrongly came to a conclusion that no parental documents produced for the ancestral property partitioned through deed dated 22.04.1948. The First Appellate Court after analysing the evidences correctly set aside the judgment of the Trial Court and decreed the suit as the documents produced by the plaintiffs established the case of the plaintiffs and no evidence adduced by the defendants. During the pendency of the appeal, as per the direction of this Court, the appellants have verified the nature of the properties through District Collector, Tiruppur and obtained some documents from the District Collector, wherein the District Collector sent reply that as per



the records S.Nos.77 and 81 of Paruvayi Village, Palladam Taluk. Tiruppur District, there are no records to show that those properties were granted as Inam lands given in favour of the temple. Based on those documents the learned counsel appearing for the appellant also filed memo before this Court that the S.Nos.77 and 81 of Paruvayi Village which are suit properties herein are not belongs to the temple. Therefore, based on the memo, the temple is not a owner of the property whereas the plaintiffs have produced the documents for purchase of one property and also filed partition deed for other properties and for possession of other properties for long time. Therefore, the First Appellate Court has analysed the evidences and decreed the suit.

16. During the pendency of the appeal, the respondents have filed a petition under Order XLI Rule 27 r/w. Section 151 of CPC to receive the documents as additional evidence. Those documents are letters sent by the first respondent to the third respondent with respect to the properties belonging to the temple on various dates. The respondent who is the appellant in the main appeal has not filed counter. However, filed memo stating that the appellant had sought for information in respect of S.Nos.77 and 81, Paruvai Village, Palladam Taluk, Tiruppur District, in respect of property details and Inam details in the said survey numbers in favour of the temple from the Assistant Commissioner, Survey of Land and Registration Department, Tiruppur, as well as from the



District Collector, Tiruppur, by request letter dated 06.12.2024. The communication dated 23.12.2024, the office of the District Collector, Tiruppur, had issued reply stating that there is no Inam granted in the said survey numbers and there is no Inam Fair Register is available in the said survey numbers i.e. S.Nos.77 and 81. As per the request letter dated 06.12.2024, the Office of the Collector also issued the FMB Sketch and SR Register and also obtained Encumbrance Certificate in respect of S.Nos.77 and 81, Paruvai Village. All the above said documents disclosed the fact that the S.Nos.77 and 81, Paruvai Village is no way connected to the temple. Therefore, in view of the above said memo filed by the appellant and communications between the first defendant and the second respondent has been obtained after filing of the second appeal, it is appropriate to allow this petition and to receive those documents. Accordingly, those documents are received and marked as Ex.A37 to Ex.A42.

17. As far as, the substantial questions of law formulated by this Court are concerned viz.,

(i) Whether the Lower Appellate Court is justified in law in decreeing the suit in respect of the suit properties containing several items, only based on Ex.A1- Sale Deed, which does not speak about Item Nos.2 and 3 of the suit properties and specifically deals with only Item No.1 of the suit properties in respect of S.No.81/2?



According to the plaintiffs, their predecessors purchased the property in SF No.81 and SF No.77 was also enjoyed by them thereby SF No.77 is ancestral property. Subsequent to the purchase of SF No.81 the properties were partitioned between their predecessors. While so, the second defendant sent a letter to the Registrar Office not to entertain any registration of documents in respect of the properties in SF No.81 and 77 thereby the suit has been filed. Initially, the defendants contested the suit and claimed that the properties are temple properties. The Trial Court dismissed the suit, but the First Appellate Court reversed the judgment and decree of the Trial Court and allowed the appeal and decreed the suit. During pending of the second appeal, as per the direction of this Court, the appellant verified the title of the property and the suit in SF Nos.81 and 77 are not related to the second defendant temple. As per available records with the concerned Government officials the suit properties are not Inam lands and not granted to the temple. Therefore, the appellant / second defendant temple itself now conceded that the suit properties are not belongs to the temple. The respondent 1 and 2 / plaintiffs have proved their case through reliable evidences.

Though the plaintiffs have produced the documents Ex.A1/sale deed in respect of S.No.81/2, they also produced the documents like patta and other documents for possession and when the defendants have no any right over the property, the defendants not even produced the documents to substantiate their contention, subsequently admitted that the properties are not belongs to the



temple and when the plaintiffs have proved their long possession, enjoyment and produced the documents the First Appellate Court has justified in decreeing the suit.

(ii) Whether the Lower Appellate Court is justified in reversing the judgment and decree of the Trial Court without application of mind to the evidence let in by the parties in a proper and perspective manner ?

The Trial Court dismissed the suit on the ground that Ex.A1 referred the property situated in SF No.81 and not referred the other suit items of the properties. In Ex.A1, the vendor stated that it was his self acquired properties. While so, no documents produced for that and Ex.A2 partition deed four items were referred but no reference about the acquisition of the properties. Though revenue records produced by the plaintiffs those records are not sufficient and thereby dismissed the suit. However, the First Appellate Court in the judgment stated that as per Ex.A1, SF No.81 was purchased by the plaintiffs' predecessors through sale deed dated 24.01.1928. As per Ex.A2 / partition deed dated 22.04.1948 all the properties were partitioned. Ex.A6 / patta has been granted in the name of grandfather of the plaintiffs in the year 1974. Therefore, the plaintiffs proved their title and possession and the defendants have not produced any piece of evidence, thereby decreed the suit. As far as the findings of the Trial Court are concerned, all the documents are old documents, more than 60 years old registered documents. Though Ex.A1, first item of the suit property



was purchased, other items were partitioned as they are their ancestral properties. For ancestral properties there may not be any title deeds and revenue records only could be maintained. Once the plaintiffs established their case through registered documents, they discharged their initial burden and the defendants have to prove the contrary, but the defendants did not produced any piece of evidences it their favour. Therefore, the findings of the First appellate Court that the plaintiffs failed to established their case is not correct.

The First Appellate Court based on the documents and the evidences adduced by the plaintiffs and in the absence of any contra evidence to the plaintiffs' side evidence, correctly appreciated the facts and based on the documents after applying of mind and after analysing the evidences reversed the judgment of the Trial Court and the First Appellate Court has appreciated the facts in a proper perspective manner and therefore, the First Appellate Court is justified in reversing the judgment and decree passed by the Trial Court.

18. In view of the above said discussions and the answers to the substantial questions of law and the memo filed by the appellant, this appeal has no merits and deserves to be dismissed.



19. In the result,

i. CMP No. 6747 of 2024 is allowed.

ii. the Second Appeal is dismissed. No costs.

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27-01-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MTL

To

1. The Joint Commissioner
Hindu Religious Endowment Department,
Dr.Balasundaram Road, Coimbatore
2. The Sub Registrar
Sub Registrar Sub Registrar Office, Sulur,
Coimbatore District.



APPENDIX:

Additional Documents:

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Ex.A.37	01.12.2007	Letter sent by the 1 st respondent herein to the 3 rd respondent herein with respect to the properties belonging to the temple.
Ex.A.38	29.03.2012	Letter sent by the 1 st respondent herein to the 3 rd respondent herein with respect to the properties belonging to the temple.
Ex.A.39	18.10.2023	Letter sent by the 1 st respondent herein to the 3 rd respondent herein with respect to the properties belonging to the temple.
Ex.A.40	03.01.2023	Letter sent by the 1 st respondent herein to the 3 rd respondent herein with respect to the properties belonging to the temple.
Ex.A.41	02.03.2023	Letter sent by the 1 st respondent herein to the 3 rd respondent herein with respect to the properties belonging to the temple.
Ex.A.42	27.09.2023	Letter sent by the 1 st respondent herein to the 3 rd respondent herein with respect to the properties belonging to the temple.

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P.DHANABAL, J.

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