

S.A.(MD).No.148 of 2007

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.06.2026

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

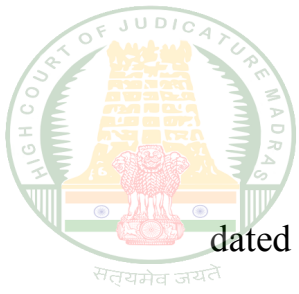
**S.A.(MD).No.148 of 2007
and
C.M.P.(MD) No.2592 of 2020**

1. Janaki Ammal (Died)
 2. Masanam(Died)
 3. Dhurairaj
 4. M.Muthulakshmi
 5. M.Janakidevi
- Appellants 4 and 5 are brought on record vide order dated 05.09.2024.

: Appellants

Vs.

1. Pitchaiya
 2. Arunachalam(Died)
 3. Kaniammal
 4. Mariammal
 5. Krishnaveni
- R3 to R5 brought on record vide order



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dated 28.07.2023.

: Respondents

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PRAYER: Appeal filed under Section 100 of C.P.C. to set aside the judgment and decree dated 29.06.2004 made in A.S. No. 15 of 2004 on the file of the Principal Sub Court, Tirunelveli, confirming the judgment and decree dated 09.12.2003 made in O.S. No. 175 of 1999 on the file of the Principal District Munsif Court, Tirunelveli, and consequently allow this Second Appeal.

For Appellant : Mr.T.Selvan

For Respondents : No appearance

J U D G M E N T

The plaintiffs are the appellants in this second appeal. The plaintiffs filed the suit in O.S. No. 175 of 1999 on the file of the learned Principal District Munsif, Tirunelveli, seeking the relief of declaration, permanent injunction and mandatory injunction against the defendants/respondents on the ground that they are the absolute owners of items 1 to 3 of the suit property by virtue of the registered sale deeds marked as Exhibits A1 and A2 and that the defendants, without any right or title, attempted to encroach upon the property and under these circumstances, the suit came to be filed before the court below.



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2. The trial court, on considering the facts and circumstances of the case and on appreciation of evidence, was pleased to dismiss the suit by judgment and decree dated 09.12.2003 on the ground that the plaintiffs failed to prove their title over items 2 and 3 of the suit property, over which, they had sought for declaration of title.

3. Aggrieved by the judgment and decree passed by the trial court, the plaintiffs filed appeal in A.S. No. 15 of 2004 and the appellate court also dismissed the appeal by judgment and decree dated 29.06.2004 and thereby confirmed the judgment and decree of the trial court. Aggrieved by the same, the present second appeal has been filed before this court.

4. This court had ordered notice to the respondents on 19.02.2007. Hence, when the matter was taken up for hearing today, this court heard the learned counsel for the appellants in order to see if any substantial question of law is involved in the present second appeal.



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5. After carefully considering the submissions of the learned counsel for the appellants and after carefully going through the judgment and decree passed by both the courts below, it is seen that the plaintiffs are claiming declaration of title with respect to items 2 and 3 of the suit property. There are totally three survey numbers involved in this case, namely Survey Nos. 625, 595 and 596. However, what has been purchased by the father of the plaintiffs under Exhibits A1 and A2 is only the property in Survey No. 625. The property in Survey No. 625 has been described as item 1 of the suit property. Insofar as Survey Nos. 595 and 596 are concerned, there was absolutely no document available to establish the title over those survey numbers. Both the courts below also took into consideration Exhibit A3, which is the title document to the property and even in this document, the Survey Nos. 595 and 596 were not covered. In the absence of purchasing those two survey numbers, both the courts below came to the conclusion that there is no basis for claiming title over those properties.

6. In the considered view of this Court, the finding of both the



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courts below is based on appreciation of evidence. This court cannot

once again re-appreciate the evidence unless the findings are perverse.

However, the finding is based on appreciation of documents and both the courts concurrently held that the plaintiffs did not prove title over items 2 and 3 of the suit property for which declaration was sought for.

7. In view of the above, no substantial question of law is involved in the present second appeal and the same stands dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

05.06.2026

Index : Yes/No

Internet : Yes/No

PKN

To

1. The Principal Sub Court, Tirunelveli.

2. Principal District Munsif Court, Tirunelveli.

3. The Record Keeper,

V.R.Section,

Madurai Bench of Madras High Court,

Madurai.



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N.ANAND VENKATESH, J

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Judgment made in
S.A.(MD).No.148 of 2007

Dated:05.06.2026