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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 14-10-2026

Delivered on : 03-**11-2026**

CORAM

THE HON'BLE MRS.JUSTICE THIRUMAGAL CHANDRASEKAR

SA(MD) Nos. 707 & 708 of 2013

CNR:{HCMD010021852013}

and MP(MD).Nos. 1 & 1 2013 in SA(MD).Nos.707 and 708 /2013

and MP(MD).Nos. 1 & 1 of 2014 in SA(MD).Nos.707 and 708 /2013

SA(MD) No. 707 of 2013

G.Suryanarayanan,
S/o.Ganapathy, Viswanathapuram, Dombuchery,
Bodinayakkanur, Theni District.

.. 2nd defendant / Appellant

Vs

1. R.Selvaraj,
   S/o.R.Subramanian, Therkku Theru,
   Thappugundu, Theni Taluk, Theni District.

   .. 1st respondent / plaintiff

2. R.Maruthupandiar,
   S/o.Ramaiya Thevar, D.No.27/4, Kurunchi
   Illam, Periyakulam Thenkarai, Theni District.

3. P.Meiyazhagan,
   S/o.O.Perumal Thevar, D.No.47, Jeyanthi
   Nagar, Vadugapatti, Periyakulam Taluk, Theni
   District.

4. O.Annakkodi,
   S/o.Otcha Thevar, Karuvelnayakanpatti, Theni
   District.

5. P.Elavarasu,
   S/o.Perumal Thevar, 1st Street,
   Karuvelnayakanpatti, Allinagar Municipality,

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Theni District.

..Respondents / Defendants

SA(MD) No. 708 of 2013

G.Suryanarayanan,
S/o.Ganapathy, Viswanathapuram, Dombuchery,
Bodinayakkanur, Theni District.

.. 2nd defendant / Appellant

Vs

1. N.Senthil,
   S/o.A.Natarajan, Ammapatti Village, Mottanuthu, Andipatti Taluk,
   Theni District.

   .. 1st respondent / plaintiff

2. R.Maruthupandiar,
   S/o.Ramaiya Thevar, D.No.27/4, Kurunchi
   Illam, Periyakulam Thenkarai, Theni District.

3. P.Meiyazhagan,
   S/o.O.Perumal Thevar, D.No.47, Jeyanthi
   Nagar, Vadugapatti, Periyakulam Taluk, Theni
   District.

4. O.Annakkodi,
   S/o.Otcha Thevar, Karuvelnayakanpatti, Theni
   District.

5. P.Elavarasu,
   S/o.Perumal Thevar, 1st Street,
   Karuvelnayakanpatti, Allinagar Municipality,
   Theni District.

.respondents / defendants

Common Prayer: Second Appeals filed under Section 100 CPC against

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the Judgment and Decree passed in A. S. No. 28 & 29 of 2012 dated 31.01.2013 on the file of the Subordinate Court, Theni confirming the judgment and decree of the Trial Court in O. S. No. 36 & 37 of 2009 dated 30.03.2012 on the file of District Munsif Court, Theni.

For Appellant in both cases : Mr.A.K. Samy
for Ms. M.Maria Vinola

For respondent No.1
In both cases : Mr. D.Malaichamy

COMMON JUDGMENT

These Second Appeals have been filed against the Judgments and Decrees dated 31.01.2013 passed in A. S. Nos. 28 & 29 of 2012 on the file of the Subordinate Court, Theni confirming the judgments and decrees of the Trial Court dated 30.03.2012 made in O. S. Nos. 36 & 37 of 2009 on the file of District Munsif Court, Theni.

2. Since both Second Appeals arise out of substantially similar facts, concern properties claimed under the same chain of title and involve common questions of law and fact, they are taken up together for hearing and disposed of by this common judgment.

3. The brief facts of the case are as follows:

(i). The plaintiffs in O.S. Nos.36 and 37 of 2009, namely, Selvaraj

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and Senthil, respectively, instituted the suits before the District Munsif Court, Theni, seeking the relief of permanent injunction restraining the defendants, their men, agents and persons claiming through them from interfering with their peaceful possession and enjoyment of the respective suit schedule properties situated in Survey No.192/1, measuring an extent of 2 acres and 67 cents in Karuvelnayakkanpatti North Field, Allinagaram Village, Theni District.

(ii). The case of the plaintiffs is that an extent of 89 cents on the southern side of the aforesaid survey number originally belonged to Ochath Thevar and Perumal Thevar, who had obtained the same under a partition and were in possession and enjoyment thereof. They sold an extent of 80 cents on 23.08.1962 and a further extent of 9 cents on 01.09.1962 to Raju Pillai under registered sale deeds. The said Raju Pillai, in turn, conveyed portions of the property to various purchasers, including Mariammal and others. According to the plaintiffs, the suit properties were subsequently conveyed through the respective vendors and their predecessors-in-title, and the plaintiffs acquired their respective portions under the sale deeds executed in their favour. They claimed to have been in possession and enjoyment of the suit properties pursuant to their respective purchases.

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(iii). The plaintiffs further alleged that the defendants 3 to 5 claimed to be the legal heirs of the original owners, namely, Ochath Thevar and Perumal Thevar, and were attempting to create encumbrances over the suit properties in favour of defendants 1 and 2. It was specifically alleged that the defendants attempted to trespass upon and interfere with the plaintiffs' possession, and hence, the respective suits were instituted seeking permanent injunction.

(iv). Resisting the suits, the defendants denied the plaintiffs' title, possession and enjoyment of the suit properties and disputed the genuineness of the sale deeds relied upon by them. They contended that the sale deeds relied upon by the plaintiffs did not confer any right or title over the suit properties and that the defendants 1, 2 and 4 were in joint possession and enjoyment thereof, with joint patta having been issued in their names. It was further contended that the second defendant had purchased the property from the first defendant, who was acting under a power of attorney executed by defendants 3 and 5, and that the purchase was made for valuable consideration.

(v). In the additional written statement, the defendants 3 and 5

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contended that the suit properties originally belonged to Rama Thevar and that the parties to the suit traced their respective claims through his descendants. They disputed the genealogy and the particulars furnished by the plaintiffs and contended that the suits were bad for non-joinder of necessary parties. They further asserted that the property had been mortgaged under a registered mortgage deed dated 08.06.1928, executed by Vaikundasamy Naidu in favour of Rama Thevar, and that the mortgage had subsequently been dealt with by the legal heirs of Rama Thevar. They also relied upon the patta standing in the name of the third defendant and contended that defendants 3 and 5 had executed a power of attorney in favour of the first defendant, pursuant to which a portion of the suit property had been conveyed to the second defendant. On these grounds, they sought dismissal of the suits, also raising objections regarding limitation and the adequacy of court fee.

(vi). The plaintiffs filed their respective suits denying the allegations in the written statements and reiterating that they had validly acquired the suit properties and were in possession and enjoyment thereof. They contended that, as the defendants had no right over the suit properties, there was no necessity to seek a declaration of title and that the relief of permanent injunction was sufficient.

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(vii). On the side of the plaintiffs, Selvaraj and Senthil were examined as P.W.1 in their respective suits, and Exs.A1 to A4 were marked. On the side of the defendants, the first, second and third defendants were examined as D.W.1 to D.W.3, respectively, and the defendants' documents were marked as Exs.B1 to B7 in O.S. No.36 of 2009 and Exs.B1 to B8 in O.S. No.37 of 2009.

(viii). Upon consideration of the oral and documentary evidence, the trial Court, by separate judgments and decrees dated 30.03.2012, decreed both suits, granting the relief of permanent injunction restraining the defendants, their men, agents and persons claiming through them from trespassing upon and interfering with the plaintiffs' possession of the respective suit properties.

(ix). Aggrieved by the said judgments and decrees, the second defendant, Suryanarayanan, preferred A.S. No.28 of 2013 against the decree in O.S. No.36 of 2009 and A.S. No.29 of 2012 against the decree in O.S. No.37 of 2009. The first appellate Court, by its respective judgments and decrees, dismissed both appeals, confirmed the judgments and decrees of the trial Court.

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4. Challenging the concurrent findings of the Courts below, the appellant / second defendant has preferred the present Second Appeals.

5. These second appeals were admitted on the following substantial questions of law:

a) Whether the Judgment and Decree of the Courts below in favour of the plaintiff on the basis of an alleged weakness of the defendant case is legally maintainable?

b) Are not the Courts below committed an error in placing the burden on the defendant in respect of the suit for injunction simplicitor wherein it is for the plaintiff to establish his possession to get the relief of injunction in his favour?

c) Whether in law the suit for injunction simplicitor without the relief of declaration in respect of vacant site is maintainable?

d) Whether in law the suit is bad for Non-joinder of necessary parties namely non inclusion of legal heirs of Ramathevar?

e) Whether the plaintiff can maintain the suit for injunction when the description of property is not clear?

f) Whether the plaintiff entitled to the relief of injunction especially when there is no document with respect to possession filed on his side?

6. Heard Mr. A. K. Samy, learned counsel for Mr. Maria Vinola appearing for the appellant / 2nd defendant and Mr. D. Malaichamy learned counsel appearing for the 1st respondent / plaintiff in both the Second Appeals and perused the materials available on record.

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7. The suit properties comprise Item Nos.1 and 2 situated in Survey No.192/1, measuring an extent of 2 acres and 67 cents, in Karuvelnayakkanpatti North field, Allinagaram Village, Theni District. The 1st respondent/plaintiff claims title to an extent of 1,293 square feet in Item No.1 and a further extent of 879 ⅜ Sq. Ft., in Item No.2, together with the respective boundaries, under the sale deeds marked as Exs.A1 and A2, executed by Gurusamy, the power agent of Mariammal.

8. The case of the 1st respondent/plaintiff is that an extent of 89 cents on the southern side of the aforesaid survey number originally belonged to Ochath Thevar and Perumal Thevar, who had acquired the same under a partition and were in possession and enjoyment thereof. They sold an extent of 80 cents on 23.08.1962 and a further extent of 9 cents on 01.09.1962 to Raju Pillai under registered sale deeds. The said Raju Pillai, in turn, conveyed portions of the property to various purchasers, including Mariammal, who purchased an extent of 10 cents on 09.09.1962. The 1st respondent/plaintiff claims through the subsequent conveyances and asserts that he purchased the suit properties under Exs.A1 and A2 from Gurusamy, the power agent of Mariammal. According to the 1st respondent / plaintiff, he has been in possession and

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enjoyment of the suit properties pursuant to the said purchases.

9. Per contra, the appellant / second defendant disputes the 1st respondent / plaintiff's title and possession and contends that the suit properties belong to the legal heirs of the original owners. According to him, the first defendant / 2nd respondent, acting as the power agent of defendants 3 and 5, conveyed the property in his favour for valuable consideration. The appellant / 2nd defendant further relies upon a mortgage deed dated 08.06.1928, and contends that the mortgage created by Rama Thevar was subsequently redeemed by the persons claiming through the original owners. In support of his claim, he relies upon Ex.B7, a certified copy of a receipt for payment dated 03.04.2007, and a certified copy of a partition deed dated 08.01.2008.

10. The principal contention of the learned counsel appearing for the appellant / second defendant is that the 1st respondent / plaintiff has not properly described the suit properties and has failed to implead all the necessary parties. It is further contended that the rival claims and the documents relied upon by the appellant / second defendant create a cloud over the 1st respondent / plaintiff's title and, therefore, the 1st respondent / plaintiff ought to have sought a declaration of title in addition to the relief of permanent injunction. According to the learned counsel, a suit for bare

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injunction simpliciter is not maintainable in the circumstances of the present cases.

11. It is also contended that the Courts below erred in appreciating the documentary evidence and in arriving at the conclusion that the 1st respondent / plaintiff was entitled to the relief of permanent injunction. In support of the aforesaid contentions, he relied upon the following judgments:

1. The judgment of this Court reported in ***2003 (1) CTC 345; 2003 (1) MLJ 722*** in the case of ***S. Ramesh Babu v. R. Bhaskar,***

2. The judgment of the Hon'ble Supreme Court reported in ***2021 SCC OnLine SC 675*** in the case of ***Kayalulla Parambath Moidu Haji v. Namboodiyil Vinodan,***

3. The judgment of the Hon'ble Supreme Court reported in ***(2006) 5 SCC 558*** in the case of ***Anil Rishi v. Gurbaksh Singh.***

4. The judgment of the Hon'ble Supreme Court reported in ***(2008) 4 SCC 594*** in the case of ***Anathula Sudhakar v. P. Buchi Reddy (Dead) by LRs.,***; and

5. The judgment of the Hon'ble Supreme Court reported in ***(2021) 3 SCC 675*** in the case of ***A. Subramanian v. R. Panneerselvam,***.

12. The learned counsel appearing for the 1st respondent/plaintiff, on the other hand, supported the concurrent findings of the Courts below

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and submitted that the 1st respondent / plaintiff had established his possession over the suit properties through the sale deeds and the antecedent conveyances. It was contended that the properties claimed by the 1st respondent / plaintiff are distinct from those claimed by the appellant / 2nd defendant and that the latter had failed to establish any subsisting right over the suit properties. He further submitted that, in the absence of a genuine cloud over the 1st respondent / plaintiff's title requiring adjudication by way of declaration, a suit for permanent injunction simpliciter is maintainable. In support of his contention the learned counsel relied upon the following judgments:

1. The judgment of the Hon'ble Supreme Court **,** reported in ***(2017) 1 SCC (Civil) 268*** in the case of ***Muddasani Venkata Narsaiah (D) Through LRs v. Muddasani Sarojana***, and

2. The judgment of this Court reported in ***2026 (4) CTC 759*** in the case of ***P.S. Srinivasan @ N.S. Srinivasan and Another v. B. Loganatha Mudaliar and Others.***

13. The principal questions that arise for consideration are whether the 1st respondent / plaintiff was entitled to maintain the suits for permanent injunction without seeking a declaration of title, whether the suits are liable to be dismissed for non-joinder of necessary parties, and whether the concurrent findings of the Courts below warrant interference in these Second Appeals.

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14. On a consideration of the pleadings and evidence, it emerges that the parties trace their respective claims to the ancestral property stated to have belonged to Rama Thevar. It is the case of the parties that the property in Survey No.192/1 measuring an extent of 2 acres and 67 cents. The said Rama Thevar is stated to have had three sons, namely, Ochath Thevar, Vaira Thevar and Nallakaruppu Thevan. Ochath Thevar, in turn, is stated to have had three sons, namely, Ochath Thevar, Perumal Thevar and Marichamy. The 1st respondent / plaintiff traces his claim through the conveyances originating from Ochath Thevar and Perumal Thevar, whereas the appellant / 2nd defendant asserts a competing right through the legal heirs of the original owners. The rival claims must, therefore, be examined with reference to the documentary evidence, the identity of the properties and the evidence concerning possession.

15. The 1st respondent / plaintiff relies upon Exs.A1 and A2 to establish his purchase of the suit properties. Exs.A3 and A4 are described in the exhibit particulars as original sale deeds dated 15.02.2006 relating to vacant house sites, including a sale deed executed by Krishnamoorthy in favour of Senthil. The description furnished for Ex.A3 also refers to transactions involving Gurusamy, Krishnamoorthy and Amudhavalli. The

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evidentiary value of these documents has to be assessed in conjunction with Exs.A1 and A2 and the oral evidence concerning the identity, extent and possession of the suit properties.

16. The appellant/second defendant relies upon the mortgage deed dated 08.06.1928 and contends that the mortgage created by Rama Thevar was subsequently redeemed. In support of his claim, he relies upon the certified copy of the receipt dated 03.04.2007, executed by Ramaraj and Nagaiyasamy in favour of Ilavarasan, Meyyazhagan, Annakodi and Perumal Thevar, evidencing the alleged payment towards redemption of the mortgage, and the certified copy of the partition deed dated 08.01.2008, executed by Ilavarasu, Pappammal, Sivandhammal, Pandiyammal and Meyyazhagan. The appellant/second defendant relies upon these documents in support of his claim regarding the alleged redemption of the mortgage and the subsequent devolution of rights in the property.

17. The trial Court examined the recitals of the documents relied upon by the appellant / second defendant and found that the original document relating to the extent of 89 cents was stated to have been handed over upon redemption of the mortgage. However, the original title

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document was not produced before the Court, and no satisfactory explanation was offered for its non-production or for the circumstances in which it was allegedly returned to the persons claiming through the original owner. The trial Court, therefore, entertained doubts concerning the evidentiary value of the documents relied upon by the appellant / second defendant to establish the alleged redemption of the mortgage.

18. Ex.B7, being a receipt, and Ex.B8, being a partition deed, must be considered according to their respective contents and legal effect. Their mere production does not, by itself, conclusively establish either the redemption of the mortgage or the appellant / second defendant's entitlement to the specific suit properties. The appellant / second defendant was required to establish the connection between the alleged mortgage, its redemption, the subsequent devolution of rights and the properties claimed by him. The Courts below, upon appreciating the evidence, found that the appellant / second defendant had not satisfactorily established such a connection so as to defeat the 1st respondent / plaintiff's claim to possessory protection.

19. Upon appreciation of the oral and documentary evidence, the trial Court concluded that the properties claimed by the 1st respondent /

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plaintiff and the appellant / second defendant were distinct. The 1st respondent/plaintiff's properties were identified as being situated in the central southern portion of Survey No.192/1, whereas the property claimed by the appellant / second defendant was stated to be situated in a different portion. The trial Court further found that the appellant / second defendant had failed to establish that the 1st respondent / plaintiff's possession extended over the property claimed by him. The said finding was affirmed by the first appellate Court.

20. The contention that the 1st respondent/plaintiff ought to have sought a declaration of title must be considered in the light of the principles laid down by the Hon'ble Supreme Court in ***Anathula Sudhakar case***. The maintainability of a suit for permanent injunction simpliciter depends upon the nature of the pleadings and the dispute disclosed by the evidence. Where the plaintiff is in lawful possession and the defendant merely attempts to interfere with such possession without raising a genuine cloud over the plaintiff's title, a suit for injunction may be maintainable. However, where the defendant raises a genuine dispute concerning title and the adjudication of title is necessary to grant the relief sought, the plaintiff may be required to seek a declaration of title, together with consequential relief. In the present cases, the 1st respondent

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/ plaintiff relies upon the sale deeds and the antecedent conveyances to establish his claim to the suit properties. The Courts below have concurrently found that the 1st respondent / plaintiff established his possession and that the properties claimed by the appellant / second defendant were distinct from the suit properties. The appellant / second defendant's reliance upon the alleged mortgage and its redemption was also considered by the Courts below, which found that the documents relied upon by him did not satisfactorily establish his entitlement to interfere with the 1st respondent / plaintiff's possession. In these circumstances, the mere denial of title by the appellant / second defendant does not, by itself, render the suits for permanent injunction not maintainable. The Judgments relied upon by the learned counsel for the appellant / second defendant is not applicable to the facts of the present case.

21. The objection concerning non-joinder of necessary parties must likewise be examined with reference to the nature of the relief claimed. The 1st respondent/plaintiff claims through Mariammal, whose power agent executed the sale deeds relied upon by him. The suits seek protection of the 1st respondent / plaintiff's possession against the alleged interference of the defendants. The Courts below found that the 1st

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respondent/plaintiff had established possession and that the appellant / 2nd defendant had failed to establish a superior claim to the specific suit properties. In the absence of a demonstrated omission of a party whose presence is indispensable for the effective adjudication of the relief claimed, the objection regarding non-joinder cannot, by itself, warrant reversal of the concurrent findings. Having considered the oral and documentary evidence, the Courts below found that the 1st respondent/plaintiff was entitled to protect his possession and that the appellant / 2nd defendant had failed to establish that the properties claimed by him were identical to the suit properties. No sufficient ground has been demonstrated to displace those findings.

22. Accordingly, this Court holds that the 1st respondent/plaintiff has established his claim on the basis of his own evidence and not merely on the weakness of the defence, and that the Courts below have not improperly shifted the burden of proof onto the defendants. The Court further holds that the suits for bare injunction are maintainable on the facts and circumstances of the case, the non-joinder of the legal heirs of Rama Thevar is not fatal, and the suit properties have been sufficiently identified by the evidence on record. The concurrent finding regarding the plaintiff's possession does not warrant interference under Section 100

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of the CPC.

23. In view of the foregoing discussion, this Court is of the considered opinion that the objections concerning the maintainability of the suits for bare injunction, non-joinder of necessary parties and appreciation of the rival documents do not warrant interference with the judgments and decrees of the Courts below. The concurrent findings are based upon the evidence considered by the Courts below, and no sufficient ground has been made out for setting them aside.

24. Accordingly, both the Second Appeals are dismissed, confirming the respective judgments and decrees passed by the Courts below. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

03-11-2026

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

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To

1. The Subordinate Court, Theni.
2. The District Munsif Court, Theni.
3. The Section Officer, VR Section, High Court, Madurai.

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THIRUMAGAL CHANDRASEKAR, J.
T. RAJAPRABA

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