



SA(MD). No.275 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 29.06.2026

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THE HON'BLE MRS JUSTICE T.V.THAMILSELVI

SA(MD). No.275 of 2024
and
CMP(MD)No.6024 of 2024

1.R.Senthil Kumar ... Appellant / 1st Appellant /
4th defendant
2.P.Raman ... Appellant/2nd Appellant/3rd Party

Vs.

1.Bharathi Kannan1st Respondent/1st Respondent/
Plaintiff
2.N.Murugan (Died)
3.P.Chitra
4.K.Vijayakala
5.T.ushalakshmi
6.M.P.Vasantha
7.B.Saravanan
8.P.Nallamani ... Respondents 2 to 8/Respondents 2 to 8
Defendants 1 to 3, 5 to 8
9.Arulnayahari
10.M.Nagarajan(Minor)
11.M.Sasi @ Sasikumar (Minor) ... Respondents 9 to 11/
Respondents 9 to 11/3rd Party
R10 & R11 rep. By their
Mother Arulnayahari-R9

(No relief sought for against the respondents 2 to 11.
The respondents 2 to 6 and 8 to 11 are set ex-parte in the

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suit and 1st appeal. Respondent No.7 is exonerated. Hence notice to the respondents 2 to 11 may be dispense with)

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PRAYER :- Second Appeal filed under Section 100 of Civil Procedure Code, to set aside the decree and judgment passed by the learned Additional District Judge, Dindigul in A.S.No.28 of 2016, dated 19.04.2022 whereby confirming the decree and judgment passed by the learned Principal Subordinate Judge, Dindigul in O.S.No.93 of 2010, dated 30.04.2014 and to allow the above second appeal.

For Appellants : Mr.N.Sathish Babu

For R1 : Mr.D.Venkatesh

JUDGMENT

The fourth defendant and the third party, who suffered the concurrent findings before the trial Court in O.S.No.93 of 2010, on the file of the Principal Sub-Court, Dindigul, and the first appellate Court in A.S.No.28 of 2026, on the file of the Additional District Court, Dindigul, are the appellants herein.

2. The first respondent / plaintiff has sought for a relief of declaration and permanent injunction, which has been decreed by the trial Court and affirmed by the first appellate Court.



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3. The Second Appeal is yet to be admitted. However, by consent, the second appeal has been taken up for final hearing.

4. I have heard Mr.N.Sathish Babu, learned counsel for the appellants and Mr.D.Venkatesh, learned counsel for the contesting first respondent.

5. For the sake of convenience, the parties are referred to as per their rank before the trial Court.

6. Brief facts that are necessary for decision in the above second appeal are as follows:

The suit schedule property originally belonged to one N. Alagarsamy and his brother, N. Murugan, who is the second respondent herein. The property is situated in Survey No. 765/2, Seelappadi Village, Dindigul District, measuring an extent of 4 acres and 33 cents. The said property constituted the joint family property of the second respondent and his elder brother, N. Alagarsamy. On 27.08.1997, the second respondent and his brother, N. Alagarsamy, acting jointly on behalf of



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themselves and their children, executed an unregistered agreement for sale in favour of one Sakthivel in respect of the suit schedule property for a total sale consideration of Rs.32,00,000/-. During the subsistence of the said sale agreement dated 27.08.1997, the second respondent and his brother executed a registered Power of Attorney dated 18.09.1997 in favour of the said Sakthivel, authorising him to deal with the suit schedule property. Subsequently, Sakthivel acted contrary to the interests of the second respondent and his brother. Consequently, the second respondent, on behalf of himself and his brother, revoked and cancelled the Power of Attorney dated 18.09.1997. Thereafter, on 26.04.2000, the second respondent executed a registered sale deed in favour of the appellant, thereby conveying the suit schedule property. After purchasing the property, the appellant came to know that, during the subsistence of the Power of Attorney, Sakthivel had formed a layout by converting the second respondent's share in the suit schedule property into house plots and had executed sale deeds dated 07.04.1998 in favour of the first respondent/plaintiff in respect of Plot Nos. 29, 32, 33 and 34 for valuable consideration. Since the date of purchase, the first respondent/plaintiff has been in possession and enjoyment of the said plots, and patta has also



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been issued in his favour. Subsequently, defendants 2 to 8 allegedly interfered with the peaceful possession and enjoyment of the first respondent/plaintiff, claiming title to the property on the ground that they had purchased the same from the first defendant. Aggrieved by such interference, the first respondent/plaintiff instituted the present suit seeking a declaration of title and a consequential decree of permanent injunction.

7. The fourth defendant resisted the suit by filing a detailed written statement, contending that the General Power of Attorney dated 18.09.1997, which is alleged to have accepted the partition deed dated 14.07.1997, had already been cancelled. The fourth defendant further contended that the plaintiff, in collusion with the said Sakthivel and with an ulterior motive to extract money from him, had instituted the present suit seeking the reliefs of declaration and permanent injunction. It was further stated that, as the plaintiff had gone abroad for employment, he executed a Power of Attorney dated 24.11.2006 in favour of his father, Chikkanan, and that the present suit has been instituted through the said Power of Attorney holder.



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8. Before the trial Court, on the side of the plaintiff P.W.1 and P.W.2 were examined and 16 documents were marked as Ex.A1 to Ex.A16. On the side of the defendants, one Raman was examined as D.W.1 and 6 documents were marked as Ex.B1 to Ex.B6.

Decision of the trial Court and the first appellate Court:

9. The trial Court, on consideration of the pleadings and evidence adduced by the parties, decreed the suit on 30.04.2014, as against which, the the fourth defendant preferred an appeal in A.S.No.28 of 2016, before the Additional District Court, Dindigul, which was also dismissed, confirming the findings of the trial Court.

10. Aggrieved by the concurrent findings of the trial Court as well as the first appellate Court, the fourth defendants filed the present second appeal.

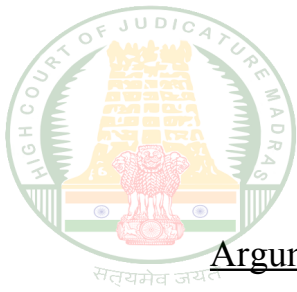
Arguments of Mr.C.Gangai Amaran, learned counsel for the appellants:

11. The learned counsel for the appellant/D4 would state that the Courts below have failed to appreciate the fact that the documents in



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Ex.B1 constituted the transaction between the first appellant and the first defendant and the documents in Ex.B1 to B6 clearly proved the first appellant's title and possession in the schedule mentioned property. He further submitted that the suit has been filed based on an unregistered agreement of sale dated 27.08.1997. As such, the said unregistered document cannot be relied upon to decide the title of the plaintiff. In the above said sale agreement clearly mentioned by the first defendant and his brother Alagarsamy that the time limit is fixed as one year and if at all, the sale deed had not been executed within the time stipulated, the above said sale agreement became invalid. The said fact has not been considered by the Courts below. He further submitted that when the plaintiff claim that he has title in respect of the suit property under Ex.A4, it is for him to prove by sufficient evidence, that such documents were valid in the eye of law. Since it is clear that the Exhibits A2 & A3 are forged and concocted documents, the document marked as Ex.A4 said to have been executed in favour of the plaintiff, cannot be held to be valid. Further he claimed that he purchased the property through valid sale deed on 26.04.2000. In this regard, the learned counsel also suggested substantial questions of law.



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Arguments of Mr.D.Venkatesh, learned counsel for the first respondent:

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12. Per contra, the learned counsel appearing for the contesting first respondent/plaintiff submitted that the plaintiff had purchased the suit property for valid sale consideration under a registered sale deed dated 07.10.1998, executed by the power agent, Sakthivel, acting on behalf of the original owner, Alagarsamy and his brother. He therefore contended that the Courts below had committed no error in decreeing the suit in favour of the plaintiff and that no interference is warranted by this Court in the present second appeal.

13. I have carefully considered the submissions advanced by the learned counsel for the parties.

14. The learned Trial Judge held that, pursuant to the Power of Attorney, one Sakthivel, acting as the power agent, validly sold the suit property to the plaintiff for valuable sale consideration. Subsequently, the very same property was sold once again to the fourth defendant by Murugan, the first defendant in the suit. Although it was contended that



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the said Power of Attorney had been cancelled, no documentary evidence was produced before the Trial Court to substantiate such contention. Consequently, the Trial Court held that the plaintiff's purchase of the suit property was valid and lawful. The Trial Court also found that neither the first defendant entered the witness box to depose in support of his case nor examined individual witness to establish that he was a bona fide purchaser for value without notice.

15. Admittedly, the fourth defendant purchased the suit property in the year 2000. However, the plaintiff had purchased the property earlier, in the year 1998. There is no evidence to show that the fourth defendant verified the encumbrance records prior to his purchase, but his evidence discloses that he was aware of cancellation of power of attorney also not verified encumbrance before purchase. Although the fourth defendant contended that the plaintiff's purchase was based on an unregistered power of attorney, the said power of attorney has never been challenged by the fourth defendant, even after his purchase of the property. In these circumstances, the Trial Court rightly concluded that the plaintiff's purchase is valid and also held that D4 is not a bonafide



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purchaser, accordingly, decreed the suit as prayed for. The appreciation of the oral and documentary evidence by the Courts below is proper, cogent, and in accordance with law. There is no valid or substantial ground to interfere with the well-reasoned and concurrent findings of fact recorded by the Courts below.

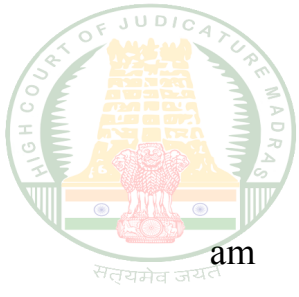
16. I do not find any substantial grounds arising for consideration in the second appeal, warranting interference under Section 100 of the Code of Civil Procedure.

17. In fine, the second appeal is dismissed and the judgment and decree in O.S.No.93 of 2010, on the file of the Sub-Court, Dindigul, by affirming the judgment and decree in A.S.No.28 of 2016, on the file of the Additional District Court, Dindigul, is hereby confirmed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

29.06.2026

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

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TO

- 1.The Additional District Court,
Dindigul.
- 2.The Principal Subordinate Court,
Dindigul.



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T.V.THAMILSELVI,J.

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