



SA(MD). Nos.310 and 311 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
WEB COPY

Reserved On : 16.03.2026

Delivered on : 30.03.2026

CORAM

THE HONOURABLE MR. JUSTICE P.B.BALAJI

SA(MD). Nos.310 and 311 of 2025

SA(MD). No.310 of 2025

Muthuramalingam (Died)

1.Bose

2.Muthu

3.Sankarasubbu

... Appellants/Appellants / Plaintiffs 1 -3

4.Kandammal

5.Sundarapandian

6.Saravanan

... Appellants/Appellants

Vs.

1.Rajapandian (Died)

2.Anthonysamy

... Respondents / Respondents / Defendants

3.Krishnammal

4.R.Muthulakshmi

5.R.Anand Babu

6.Ananthalakshmi

1/27



SA(MD). Nos.310 and 311 of 2025

(R3 to R6 are brought on record as LR's of deceased R1

vide Court order dated 07.01.2026 made in CMP(MD)

Nos.19626 and 19627 of 2025)

... Respondents

PRAYER :- Second Appeal is filed under Section 100 of the Civil Procedure Code, against the decree and judgment of the Subordinate Court, Kovilpatti, passed in A.S.No.24 of 2016 dated 06.06.2023 against the decree and judgment of the District Munsif Court, Kovilpatti, passed in O.S.No.122 of 2010 dated 30.08.2016.

SA(MD). No.311 of 2025

Muthuramalingam (Died)

1.Bose

2.Muthu

3.Sankarasubbu

... Appellants/Appellants / Plaintiffs 1 -3

4.Kandammal

5.Sundarapandian

6.Saravanan

... Appellants/Appellants

Vs.

1.Rajapandian (Died)

2.Anthonysamy

3.Krishnammal

4.R.Muthulakshmi

... Respondents / Respondents / Defendants



SA(MD). Nos.310 and 311 of 2025

5.R.Anand Babu

6.Ananthalakshmi

(R3 to R6 are brought on record as LR's of deceased R1
vide Court order dated 09.09.2025 made in CMP(MD)

Nos.13535 and 13536 of 2025) ... Respondents

PRAYER :- Second Appeal is filed under Section 100 of the Civil Procedure Code, against the decree and judgment of the Subordinate Court, Kovilpatti, passed in A.S.No.24 of 2016 dated 06.06.2023 against the decree and judgment of the District Munsif Court, Kovilpatti, passed in O.S.No.122 of 2010 dated 30.08.2016.

(In both Second Appeals)

For Appellants : Mrs.Lakshmi Gopinathan
for M/s.Polex Legal Solutions

For Respondents : Mr.C.Jeganathan, for R3 to R6
: No appearance for R2

COMMON JUDGMENT

These second appeals arise out of O.S.No.122 of 2010 on the file of the District Munsif Court, Kovilpatti and A.S. Nos.24 and 25 of 2016 before the Subordinate Judge, Kovilpatti. The plaintiffs in the said suit are the appellants in the present second appeals.



SA(MD). Nos.310 and 311 of 2025

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

3. Pleadings:

The Complaint in brief::

3.1. The suit property belonged to Yesaiyya, who is the father of the second defendant. The father of the plaintiff, viz., Pandithevar entered into an unregistered sale agreement with the said Yesaiyya on 31.10.1974 and having paid the entire sale consideration was put in possession of the suit property, even on the date of the sale agreement. The father of the plaintiff died in the year 2002 and thereafter, the plaintiffs have been in continuous possession and enjoyment of the suit property. Yesaiyya died on 15.08.2004 in Kerala. Subsequent to his death, the plaintiffs approached the second defendant to execute the sale deed in their favour and the second defendant also obliged by executing a sale deed on 16.12.2004 in favour of the plaintiffs.



SA(MD). Nos.310 and 311 of 2025

3.2. As the plaintiffs were working away from the Village, because of their employment, they could not take steps to mutate the revenue records in their names. However, they have been paying the kists in the name of their father Pandithevar till 2010. Patta stands in the name of Yesaiyya in patta No.15. The plaintiffs came to know that the patta was transferred in the name of the first defendant and sought for cancellation of the same by approaching the Revenue Divisional Officer, Kovilpatti.

3.3. At that point of time, the plaintiffs came to know that the first defendant has obtained sale deed on 03.11.2004 from the second defendant and his sister David Rani. The second defendant and his sister David Rani did not execute any such sale deed in favour of the first defendant and the sale deed has been executed by third parties, having no right over the suit property and the sale deed in favour of the first defendant is not a valid document in the eye of law and has to be declared as null and void. As the first defendant is trying to alienate the suit property, injunction is also prayed for. Title of the plaintiffs is also sought to be declared.



SA(MD). Nos.310 and 311 of 2025

WEB COPY

4. Written statement filed by the 1st defendant in brief:

The first defendant admitted the unregistered sale agreement between the father of the plaintiff, Pandithevar and Yesaiyya, on 31.10.1974. However, no steps were taken by Pandi Thevar to get a sale deed and the agreement has lapsed by efflux of time. The first defendant denies the fact that the father of the plaintiffs was put in possession of the suit property under the said registered sale agreement. The first defendant claimed to have purchased the suit property from the legal heirs of Yesaiyya, viz., Anthonysamy and David Rani, vide registered sale deed dated 03.11.2004 and ever since the first defendant has been in peaceful possession and enjoyment, including effecting mutation of revenue records and patta in his name. The sale deed relied upon by the plaintiffs is fraudulent and only with an intention to grab the suit property. The peition filed by the plaintiffs before the Revenue Divisional Officer, Kovilpatti, has also been dismissed.



SA(MD). Nos.310 and 311 of 2025

WEB COPY

5. Written statement filed by the 2nd defendant in brief:

The second defendant is the son of Late.Yesaiyya, who was the original owner of the suit property, by virtue of patta No.15. The said Yesaiyya sold the suit property to the father of the plaintiffs in and by an unregistered sale agreement dated 31.10.1974. Pandithevar, father of the plaintiff was put in possession of the suit property on the same date. Both Yesaiyya and Pandithevar are no more. Upon the plaintiffs approaching the second defendant, the second defendant executed a sale deed on 16.12.2004. The second defendant denies the claim of the first defendant that he and his sister executed a sale deed in favour of the first defendant. The second defendant therefore prayed for the suit being decreed.

6. Additional Written statement filed by the 1st defendant in brief:

Pandithevar and father of the plaintiffs, viz. Yesaiyya did not obtain sale deed from Yesaiyya within the agreed time and also did not pay the sale consideration to him. The sale deed executed by the second defendant and his sister on 03.11.2004 in favour of the first defendant



SA(MD). Nos.310 and 311 of 2025

has been registered in the Sub Registrar office, Kzhugumalai. The sale deed executed by the second defendant in favour of the plaintiffs on 16.12.2004, is not joined by the other legal heir, David Rani. Further, the first defendant's sale deed is prior in point of time. Hence, the plaintiffs' sale deed is unsustainable.

7.Issues framed by the trial Court:

Based on the pleadings, the trial Court has framed the following issues:

- 1) Whether the suit property is absolutely belongs to the plaintiffs?
- 2) Whether the sale deed Document No.1748/2004 dated 03.11.2004 in favour of 1st defendant is valid?
- 3) Whether the plaintiff is entitled to the relief of declaration as prayed for?
- 4) Whether the plaintiffs are entitled to the relief of permanent injunction as prayed for?



SA(MD). Nos.310 and 311 of 2025

8.Trial:

At trial, the 4th plaintiff examined himself as P.W.1 and marked Ex.A1 to Ex.A4, one Krishnamoorthy was examined as P.W.2 and Ex.C1 to Ex.C3 were marked through P.W.2; One Pethanna was examined as P.W.3 and in his cross examination Ex.B1 was marked. On the side of the defendants, the first defendant examined himself as D.W.1 and marked Ex.B1 to Ex.B5; the second defendant examined himself as D.W. 2 and in his cross examination Ex.A6 was marked.

9.Decision of the trial Court:

The Trial Court decreed the suit, by refusing the relief of declaration; however, it granted the relief of permanent injunction, finding that the plaintiffs were in possession of the suit property.

10.Decision of the First Appellate Court:

Aggrieved by the denial of relief declaration, the plaintiffs filed A.S.No.24 and 2016 and challenging the decree for permanent injunction, the first defendant filed A.S.No.25 of 2016. Both the appeals



SA(MD). Nos.310 and 311 of 2025

were taken up together by the Subordinate Court, Kovilpatti and the appeal filed by the plaintiffs was dismissed and the appeal filed by the first defendant was allowed and in effect, the suit was dismissed in entirety.

11. Present appeals:

The present Second Appeals have been filed challenging the judgment and decree in A.S.Nos.24 and 25 of 2016, on the file of the Subordinate Court, Kovilpatti.

12. Substantial question of law:

On 16.03.2026, this Court admitted these Second Appeals on the following substantial question of law:

”When the execution of Ex.B2 is denied by its executor, namely the second defendant, as a forged document, whether the Courts below were right in holding that the first defendant has proved the due execution of Ex.B2, in the absence of proof of due execution of the sale deed?”

10/27



SA(MD). Nos.310 and 311 of 2025

WEB COPY

13. I have heard Mrs.Lakshmi Gopinath for M/s.Polex Legal Law Legal Solution, learned counsel for the appellant and Mr.Jeganathan, learned counsel for the respondents 3 to 6 in both the appeals.

14. Arguments of the learned counsel for the appellant:

14.1. Mrs.Lakshmi Gopinathan, learned counsel for the appellants would contend that though the plaintiffs came to Court with a specific case that the suit property had been purchased from the second defendant, who claimed to be the absolute owner of the property as one of the legal heirs of Yesaiyya, the first defendant, in defence, set up a case that at an earlier point of time, he had purchased the property from two of the legal heirs of the deceased Yesaiyya, namely his son, Anthonysamy, and his daughter, David Rani. She would further point out to the fact that Anthonysamy was arrayed as the second defendant in the suit. She would contend that the second defendant had categorically admitted the execution of the sale deed in favour of the plaintiffs, while



SA(MD). Nos.310 and 311 of 2025

specifically denying the factum of the execution of the sale deed in favour of the first defendant. She would further state that the first defendant had initially filed a written statement admitting to the fact that an unregistered sale agreement was entered into between the father of the plaintiffs, Pandithevar and Yesaiyya on 31.10.1974. However, the first defendant took a complete 'U' turn, after the report of the finger print expert was filed in Court, by filing an additional written statement, contending that the second defendant Anthonysamy was not the son of Yesaiyya and therefore, the sale deed executed by the second defendant in favour of the plaintiffs was not a valid and enforceable document that could convey any legal title to the plaintiffs. The learned counsel would further state that though the first defendant attempted to rely on the passport of the second defendant, to establish that he was not the heir of Yesaiyya, by pointing out the name of the father mentioned therein, the document suffered from other infirmities. She would state that the passport relied upon by the first defendant was rightly disregarded.



SA(MD). Nos.310 and 311 of 2025

WEB COPY

14.2. Also, taking me through the additional written statement, Mrs.Lakshmi Gopinathan, would state that the first defendant has admitted that the second defendant is a legal heir of Yesaiyya, and it is not open to the second defendant to contend otherwise. She would further point out to the exhibits, namely the kist receipts, which establish that physical possession was with the plaintiffs / appellants. The learned counsel would further state that the plaintiffs have also examined the witness to the sale deed in favour of the plaintiffs and on the contrary, the defendants have not established due execution of the sale deed by the alleged legal representatives, namely Anthonysamy and David Rani, in favour of the first defendant, by examining the attesting witnesses to the sale deed, the vendor, or even the said Anthonysamy, who, according to the first defendant, had conveyed the suit property along with his sister to him. The learned counsel would state that the first defendant has not even taken a plea of non-joinder of necessary and proper parties, and the first Appellate Court has, on its own, ventured to render perverse findings, without there being any pleadings or any evidence on the side



SA(MD). Nos.310 and 311 of 2025

of the first defendant. The learned counsel would also point to Ex.C1 and Ex.C2, the report of the finger print expert, which clearly found that signature found in the sale deed in favour of the first defendant was not the signature of the second defendant Anthonysamy. She would therefore state that the unregistered sale agreement, dated 31.10.1974 along with kist receipts clearly established possession being with the plaintiffs alone and the trial Court had rightly granted the decree for permanent injunction. However, it is her contention that the plaintiffs had categorically established their case through the evidence of the second defendant as well as one of the attesting witnesses and the Trial Court ought to have granted the relief of declaration also, particularly when the fingerprint expert found that the signature found in the sale deed in favour of the first defendant was not that of the second defendant.

15.Arguments of the learned counsel for the respondents 3 to 6:

15.1. Per contra, Mr.Jeganathan, learned counsel for the contesting respondents 3 to 6 would state that the plaintiffs cannot pick holes in the case of the defendants and having come to Court, the burden



SA(MD). Nos.310 and 311 of 2025

was entirely on the plaintiffs to establish their title. Referring to the facts, the learned counsel would submit that the plaintiffs have miserably failed to establish their title, and therefore, the onus never shifted and it remained on the plaintiffs to prove their title. Further, referring to the earlier sale deed in favour of the first defendant, the learned counsel would state that already title has passed to the first defendant and the sale deed executed by the second defendant alone, without involving the other legal heir was invalid, in the eye of law. It is also the contention of the learned counsel, Mr.Jeganathan that the plaintiffs are not *bona fide* purchasers, as they have admitted that they did not even obtain or verify the encumbrance certificate before purchasing the property.

15.2. The learned counsel would also submit that pursuant to the sale deed, the first defendant has also obtained patta and mutated the revenue records in his name and the first defendant had also produced kist receipts, and the Court has rightly given due weight to the same as against the kist receipts relied upon by the plaintiffs. The learned counsel would further state that in the absence of the legal heirs of Yesaiyya, the



SA(MD). Nos.310 and 311 of 2025

plaintiffs could not maintain the suit for declaration of title and all these aspects were rightly considered by the first Appellate Court. He would contend that there is no merit in these second appeals warranting interference under Section 100 of the Code of Civil Procedure.

16. I have carefully considered the arguments advanced by the learned counsel on either side and perused the materials available on record.

17. Discussion:

17.1. The plaintiffs claim under an unregistered agreement of sale, the execution of which was not initially denied by the first defendant. The said agreement was entered into by the then owner, Yesaiyya, in favour of the plaintiffs' father, Pandithevar. According to the plaintiffs, entire sale consideration was paid under the said sale agreement and the plaintiffs' father, Pandithevar was also put in possession of the suit property and subsequently, their father Pandithevar died and thereafter, the plaintiffs have been in continuous possession and enjoyment of the



SA(MD). Nos.310 and 311 of 2025

suit property, paying kist. However, it is admitted that patta was issued in the name of Yesaiyya alone and only after the demise of Yesaiyya, the plaintiffs have approached the second defendant, seeking for registration of sale deed. The second defendant came forward to execute and register a sale deed in favour of the plaintiffs. It is the categorical contention of the first defendant, even prior to the sale deed executed by the second defendant in favour of the plaintiffs, that the first defendant had already purchased the suit property in and by an earlier registered sale deed dated 03.11.2004, that is, 1 ½ months prior to the sale deed in favour of the plaintiffs. Both the sale deeds in favour of the plaintiffs as well as the first respondent are registered documents. While the plaintiffs claim to have purchased the suit property from the second defendant, who is stated to be a legal heir of Yesaiyya, the first defendant claims to have purchased the suit property from Anthonysamy, the son of Yesaiyya, and his sister, David Rani.

17.2. In the pleadings, the second defendant has taken sides with the plaintiffs, contending that he executed a sale deed only in favour of



SA(MD). Nos.310 and 311 of 2025

the plaintiffs and not in favour of the first defendant. In the written statement of the second defendant, he claims that his father Yesaiyya died on 15.08.2004 and subsequently, he has conveyed the suit property in favour of the plaintiffs. The second defendant does not disclose in his written statement as to whether there were any other legal heirs of the said Yesaiyya and as to how the second defendant claimed absolute right and entitlement to the property of Yesaiyya.

17.3. Pending trial, a finger print report was sought for from the expert and he was also examined as P.W.2. He has stated that finger print in EX.A1 sale deed could not be proved scientifically because the finger print was smudged. However, he has stated that the finger print found in Ex.B2-sale deed in favour of the first defendant is not the finger print of the second defendant Anthonysamy. In the written statement filed originally, the first defendant's case is that he purchased the property from the son and daughter of Yesaiyya, viz., Anthonysamy and David Rani. There is no admission that the second defendant is the son of Yesaiyya from whom the first defendant purchased the property. In fact,



SA(MD). Nos.310 and 311 of 2025

there is a categorical averment that the sale deed in favour of the plaintiffs is a fraudulent document. However, an additional written statement was filed in 2013, wherein the first defendant contended that the said Yesaiyya had two legal heirs, namely the second defendant and one David Rani, and that since the second defendant had already executed a sale deed in favour of the first defendant, he was not entitled to independently execute another sale deed, without joining his sister David Rani, in favour of the plaintiffs. However, in the additional written statement, the concession made by the first defendant shows that he admitted that the second defendant is the son of Yesaiyya; however, the second defendant did not have any independent right to convey the suit property in the absence of David Rani joining in the execution of the sale deed in favour of the plaintiffs. Therefore, on this ground, the sale deed dated 16.12.2001 in favour of the plaintiffs is challenged as being fraudulent.

17.4. Relying on the said additional written statement, Mrs.Lakshmi Gopinath, learned counsel for the appellants, would



SA(MD). Nos.310 and 311 of 2025

contend that having admitted that the second defendant is the son of Yesaiyya, the defendants ought to be non-suited for not examining David Rani, the sister, or the attesting witnesses to the sale deed in favour of the first defendant, to establish a valid conveyance by the legal heirs of Yesaiyya. I am unable to countenance the said line of argument.

17.5. The plaintiffs have come to Court with a definite case that their father Pandithevar was put in possession of the suit property, even as early as 1974 under an unregistered sale agreement. The unregistered sale agreement has not been exhibited as a document at trial. Therefore, the Court cannot infer whether the entire sale consideration was paid under the said document or whether the plaintiffs' father Pandithevar was put in possession of the property. Admittedly, there are two sale deeds conveying the suit property, one in favour of the first defendant, which is earlier in point of time and another plaintiffs' sale deed only by son Anthonysamy.



SA(MD). Nos.310 and 311 of 2025

WEB COPY

17.6. The factum of the property being originally by said Yesaiyya is admitted by both the parties. In this contest, examining the evidence of the second defendant, it is seen that the second defendant admits that his father Yesaiyya besides himself was also blessed with a daughter David Rani. In his cross examination, he would also state that he has not filed any document to show that he is not the son of Late.Yesaiyya. When the second defendant was confronted with the custody of the original patta passbook No.15 in favour of father Yesaiyya, he has stated that the first defendant had stolen the patta passbook from him. However, the second defendant admits that he has not given any police complaint and surprisingly also states that the first defendant is a total stranger to him.

17.7. In fact, it is his further case that the voter ID card for the second defendant was issued only in the year 2015, which is admittedly pending trial of the present suit. The original patta passbook has been produced on the side of the first defendant. That apart, the sale deed in favour of the first defendant has also been marked and in furtherance of



SA(MD). Nos.310 and 311 of 2025

the sale deed, patta has also been mutated in the name of the first defendant. The said patta is also marked as an exhibit. Both the plaintiffs and the first defendant have filed kist receipts to establish their respective claims of being in possession of the suit property. In such circumstances, due and right weightage have given to the patta mutated, that too pursuant to registered sale deed in favour of the first defendant, which was executed by the second defendant as well as the sister of the second defendant.

17.8. Though it is vehemently contended by Mrs.Lakshmi Gopinathan, learned counsel for the appellants that the first defendant has not examined any of the witnesses to his sale deed or atleast his sister David Rani, I am unable to accept the said arguments for the reason that the plaintiffs have come to Court for declaring their title. Burden was only on the plaintiffs to adduce satisfactory oral and documentary evidence. The plaintiffs have not been able to establish that they purchased the suit property from the rightful owners, namely the legal heirs of Yesaiyya, and further, the sale deed executed by the second



SA(MD). Nos.310 and 311 of 2025

defendant is also shrouded in suspicion, particularly since the second defendant was able to obtain a voter ID only in the year 2015, pending the suit. Though the second defendant appears to have taken sides with the plaintiffs, the fact remains that the second defendant, along with his sister, had already executed a sale deed in favour of the first defendant and the first defendant has also acted upon the said sale deed by mutating patta in his name, from the name of Yesaiyya and subsequently, he has also paid kist receipts.

17.9. In such circumstances, the first defendant's possession has been established before the Trial Court, and the mere filing of certain kist receipts by the plaintiffs will not override the patta standing mutated in the name of the first defendant. As already discussed, the original patta passbook, which stood in the name of Yesaiyya, has also been produced showing the name of the first defendant. The evidence of the second defendant with regard to the custody of the said patta does not inspire the confidence of this Court and the first Appellate Court had rightly found that the first defendant had established to be in lawful possession of the



SA(MD). Nos.310 and 311 of 2025

property and the plaintiffs are not entitled to the relief of permanent injunction.

17.10. Even with regard to the title, the plaintiffs have not been able to establish that they have purchased the property from the lawful owners, viz., legal heirs of Yesaiyya and admittedly, even assuming that the second defendant, Anthonysamy is the son of Yesaiyya, he alone conveyed the property, without his sister, David Rani, joining in the execution of the sale deed. Such conveyance, being subsequent to the sale deed executed in favour of the first defendant, does not confer any valid title. Therefore, the second defendant did not have any subsisting right, title or interest to execute a sale deed in favour of the plaintiffs and in such circumstances, both the trial Court and the first Appellate Court have rightly found that the plaintiffs have not established their title to the suit property also. The concurrent findings do not require interference, especially when the Courts below have adverted their attention to the available oral and documentary evidence brought on record by the parties to the *lis*.



SA(MD). Nos.310 and 311 of 2025

WEB COPY

17.11. The burden of establishing title in a suit for declaration of title and for injunction is only on the plaintiffs and the plaintiffs cannot point out holes in the defence and attempt to shift the burden on the first defendant to prove Ex.B2-Sale deed.

17.12. In the light of the above, I do not find any ground to interfere with the well considered findings of the First Appellate Court, warranting interference that too under Section 100 of the Code of Civil Procedure. The substantial question of law is answered against the plaintiffs.

18. Result:

In fine, these second appeals are dismissed. There shall be no order as to costs.

30.03.2026

NCS : Yes/No
Index : Yes / No
Internet : Yes / No
LS

25/27



SA(MD). Nos.310 and 311 of 2025

WEB COPY

To

- 1.The Subordinate Court,
Kovilpatti.
- 2.The District Munsif Court,
Kovilpatti.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



SA(MD). Nos.310 and 311 of 2025

P.B.BALAJI,J.

LS

**Pre-delivery Judgment made in
SA(MD) Nos.310 and 311 of 2025**

30.03.2026