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S.A(MD)No.114 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 08.10.2025

Pronounced on : 05.01.2026

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

S.A(MD)No.114 of 2015

and

M.P(MD)No.2 of 2015

1.Chinnapillai Ammal
W/o.Nallathambi

2.Ganesan
S/o.Nallathambi

3.Murugesan
S/o.Ganesan

4.Velmurugan
S/o.Ganesan

5.Padmavathi (Died)

...Appellants/Respondents/
Plaintiffs

Vs.

1.Murugesan
S/o.Nallamuthu

2.Thiruvengadam (Died)
S/o.Perumal

3.Thirupathi
S/o.Late. Thiruvengadam



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4.Rajendran

S/o.Late. Thiruvengadam

5.Palaniyammal

D/o.Nallathambi

...Respondents

(Appellants 1, 2, 6 are recorded as legal representatives of the deceased 5th Appellant. The Memo is recorded. Memo in USR.No.2988/08.07.2015 as per order dated 06.08.2015 made in M.P(MD)No.2 of 2015 in S.A(MD)No.114 of 2015)

(1st respondent who is already on record, is recorded as LR of the deceased 2nd respondent vide Court order dated 28.07.2022 made in C.M.P(MD)No.3267 of 2022 in S.A(MD)No.114 of 2015)

(Respondents 3 and 4 are brought on record as LRs of the deceased 2nd respondent vide Court order, dated 28.07.2022 made in CMP(MD)No.3267 of 2022 in S.A(MD)No.114 of 2015)

(6th Appellant/5th respondent is declared as major and the guardianship of 1st Appellant/Chinnapillai Ammal is discharged vide Court order, dated 15.07.2024 made in C.M.P(MD)Nos.4611, 4613 & 4614/2024 in S.A(MD)No. 114 of 2015)

(6th Appellant is transposed as 5th respondent vide common order, dated 15.07.2024 made in CMP(MD)Nos.4611, 4613 and 4614 of 2024 in S.A(MD)No.114 of 2015)

(Cause title accepted vide order dated 09.02.2015 made in M.P(MD)No.1 of 2015 in S.A(MD)Sr.No.52946 of 2014)

PRAYER :- This Second Appeal is filed under Section 100 of the Civil Procedure Code, to set aside the judgment and decree, dated 27.06.2014 and made in A.S.No.38 of 2011 on the file of the I Additional Sub Court,



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Tiruchirappalli at Thuraiyur, reversing the judgment and decree, dated 30.10.2010 made in O.S.No.52 of 2008 on the file of the District Munsif Court, Thuraiyur.

For Appellants : Mr.S.Algarsamy

For R1, R3 & R4 : Mr.P.Thiyagarajan

R2 : Died

For R5 : Mr.S.Micheal Heldon Kumar

JUDGMENT

This Second Appeal is preferred against the judgment and decree, dated 27.06.2014 passed in A.S.No.38 of 2011 on the file of the First Additional Sub Court, Tiruchirappalli at Thuraiyur, reversing the judgment and decree, dated 30.10.2010 passed in O.S.No.52 of 2008 on the file of the District Munsif Court, Thuraiyur.

2. The appellants are the plaintiffs in O.S.No.52 of 2008 on the file of the District Munsif Court, Thuraiyur. The respondents are the defendants in that suit. The appellants/plaintiffs have filed the suit for bare injunction. (The 6th appellant/plaintiff has been transposed as 5th respondent in this second appeal).



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3. For the sake of convenience, the parties are referred as plaintiffs and defendants as arrayed in O.S.No.52 of 2008 on the file of the District Munsif Court, Thuraiyur.

4. Case of the plaintiffs:-

One Nallathambi and Silamban are brothers. They partitioned their properties and they had been enjoying their respective properties with their families. The said Nallathambi's wife is Chinnapillai and they have three sons Ganesan, Chellamuthu and Nallathambi. The 1st son Ganesan's sons are Murugesan and Velmurugan. The said Chinnapillai, 1st son Ganesan and his sons Murugesan & Velmurugan are plaintiffs 1 to 4.

4.1. The second son is Chellamuthu. His wife is Perumayee. They had no issues. 2nd son Chellamuthu executed his last Will, dated 16.09.2001 in the presence of Notary bequeathing his properties to his wife Perumayee till her lifetime enjoyment and after death of Perumayee, his properties would go to his elder brother's sons Murugesan and Velmurugan (3rd and 4th plaintiffs herein). Chellamuthu died on 13.11.2005 and his wife Perumayee died on



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14.12.2007. Thereafter, his Will came to effect and the plaintiffs derived the properties of Chellamuthu as per Will, dated 16.09.2001.

4.2. The third son is Nallathambi and his wife is Padmavathy, 5th plaintiff herein. During the life time of Padmavathy, the 3rd son Nallathambi had illegal contact with one Geetha, through her he had two daughters Palaniammal and Priya, who are 6th and 7th plaintiffs herein. Nallathambi died on 14.07.2007 and the said Geetha died on 16.07.2007.

4.3. The A.Schedule properties are absolute properties of 1st plaintiff Chinnapillai. She purchased the same from its predecessor in title one Ammavasi @ Thiruvengadam and C.Thangaraju by paying sale consideration out of her means. From the date of purchase she has been in exclusive possession and enjoyment of the A.Schedule properties. But, patta is not transferred to the name of 1st plaintiff and the patta stands in the name of her predecessor as joint patta.

4.4. The B.Schedule properties are ancestral and self acquired properties of 1st plaintiff's husband Nallathambi. He enjoyed the properties along with



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his sons as joint family properties. He died on 01.02.2000. After his death, the 1st plaintiff and their three sons Ganesan, Chellamuthu and Nallathambi entitled $\frac{1}{4}$ share each in B.Schedule properties. As per Will, dated 16.09.2001 executed by 2nd son Chellamuthu, his share went to plaintiffs 3 and 4. After death of 3rd son Nallathambi his share is derived by his mother 1st plaintiff, his wife 5th plaintiff Padmavathy and his daughters, the plaintiffs 6 and 7. So, the plaintiffs have been jointly enjoying the suit properties without partition.

4.5. While being so, it is alleged that the 2nd son Chellamuthu's wife Perumayee executed a settlement deed, dated 12.12.2007 in favour of her father 2nd defendant/Thiruvengadam bequeathing her $\frac{1}{3}$ share in the suit properties. The said Perumayee had no right to execute any deed. The said settlement deed is forged one and the same is not valid one. On the basis of the said forged settlement deed, the 2nd defendant/Thiruvengadam executed a sale deed, dated 29.01.2008 in favour of 1st defendant mentioning certain item properties. The defendants have created those documents in order to obstruct the enjoyment of the plaintiffs over the suit properties. The defendants have



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give disturbance to the plaintiffs' enjoyment over the suit properties from 01.02.2008. Hence, the plaintiffs have filed the suit for permanent injunction.

5. Case of the Defendants:-

This suit has been laid without consent of the 6th and 7th plaintiffs. Their father Nallathambi, married 1st wife, Padmavathi, but he left her. So, Padmavathi stayed with her father and she has no title or possession over the property. Then, he married one Geetha as 2nd wife. As Nallathambi & Geetha died of deadly disease, the plaintiffs 1 and 2 refused to take care of plaintiffs 6 and 7. Hence, talks were held in the presence of elders and gave the share of Nallathambi to the plaintiffs 6 and 7, appointing their maternal grandfather as guardian. They entered into an arrangement, in which the plaintiffs 1 and 2 signed. The plaintiffs 6 and 7 were brought up by their maternal grandfather. The plaintiffs suppressed these facts and filed a vexatious suit.

5.1. The suit properties originally belonged to Nallathambi, husband of 1st plaintiff, by way of ancestral and purchase. His three sons, Ganesan, Chellamuthu and Nallathambi, have 1/3 share each. Some of his properties



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and jewels were given to 1st plaintiff for her lifetime maintenance.

They executed an agreement in which they stated that the properties were orally shared among three brothers 15 years back. The 2nd plaintiff is in possession of the original agreement.

5.2. As there was no chance of childbirth between Chellamuthu and his wife Perumayee due to deadly disease, they adopted one Chandrasekar, who is the son of sister of Perumayee. Their family card would show the adoption of Chandrasekar. Chellamuthu died on 13.11.2005 without executing any Will and his share of property was in possession of Perumayee and Chandrasekar. The averment that Chellamuthu executed a Will in favour of plaintiffs 3 and 4 is forged one. After his death, the property would go to his adopted son Chandrasekar. In the meantime, Chellamuthu and his wife affected by disease and they underwent ailment. So, the 2nd defendant, who is the father of Perumayee, borrowed huge loans by giving security of Chellamuthu's share property. 1st defendant repaid more than Rs.1,50,000/- towards loan. So, Perumayee executed a settlement deed, in which Perumayee stated 1/3 share of property as she was not able to identify the allotted share by oral partition took place among three brothers. Thereafter, the 2nd defendant sold



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the same to the 1st defendant on receipt of proper sale consideration.

The 2nd defendant specifically mentioned about the share properties of Chellamuthu in the sale deed. Therefore, the 1st defendant transferred patta in his name and has been enjoying the said properties by doing agriculture. The 2nd plaintiff is in possession of northern portion of suit properties, 1st defendant is in middle of suit properties and the plaintiffs 6 and 7 are in possession of southern portion of properties. With bad intention to grab the entire suit properties, the plaintiffs 1 and 2 have falsely averred about Will executed by Chellamuthu. The alleged Will executed by Chellamuthu is forged and concocted one. The suit is liable to be dismissed.

6. The trial Court has framed the following issues:

(1) Whether the Will, dated 16.09.2001, alleged to have been executed by the 1st plaintiff's son Chellamuthu, is true and valid?

(2) Whether the A.Schedule properties are in exclusive enjoyment of the 1st plaintiff, as her self-acquired properties?

(3) Whether the B.Schedule properties have been enjoyed by the plaintiffs as common family properties without any partition?



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(4) Whether the averment that the 2nd plaintiff and his two brothers partitioned the suit properties 15 years back and they have been enjoying their respective shares, is true?

(5) Whether the alleged settlement deed, dated 12.12.2007, executed by Perumayee in favour of 2nd defendant, is valid and enforceable?

(6) Whether the alleged sale deed dated 29.01.2008 executed by 2nd defendant in favour of 1st defendant is true and valid? And whether the 2nd defendant had right to sell the properties mentioned in the sale deed?

(7) Whether the alleged Muchalika stated by the defendants is true, valid and binding on the plaintiffs?

(8) Whether the cause of action is true?

(9) To what other reliefs the plaintiffs are entitled to?

Additional Issues:

(1) Whether the 1st plaintiff is acting against the welfare and interest of minor plaintiffs 6 and 7? If so, whether the 1st plaintiff has no right to be the next friend to the minor plaintiffs 6 and 7?

(2) Whether the 2nd plaintiff added the plaintiffs 6 and 7 to fulfil his self interest?



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7. During trial, on the plaintiffs' side three witnesses were examined as P.W.1 to P.W.3 and Ex.A.1 to Ex.A.22 were marked. On the defendants' side, 1st defendant was examined as D.W.1 and Ex.B.1 to Ex.B.21 were marked.

8. After hearing both sides, the learned District Munsif, Thuraiyur decreed the suit in O.S.No.52 of 2008 by holding that the Will, dated 16.09.2001, executed by Chellamuthu is valid and the settlement deed, dated 12.12.2007, executed by Perumayee is not valid one by way of judgment, dated 30.10.2010. Aggrieved by the judgment and decree, the defendants preferred the first civil appeal in A.S.No.38 of 2011 before the I Additional Sub Court, Tiruchirappalli (Thuraiyur Camp). The first Appellate Court, after hearing both sides, held that the Will executed by the Chellamuthu is clouded by suspicious circumstances and the settlement executed by Perumayee is a valid one and thereby allowed the appeal by its judgment, dated 27.06.2014, by reversing the judgment and decree of the Trial Court and dismissed the suit in O.S.No.52 of 2008.



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9. Challenging the reversal findings of the first Appellate Court, the plaintiffs have preferred this Second Appeal and the same has been admitted on 13.02.2015 on the following substantial questions of law:-

1) Whether the Will, dated 16.09.2001 executed by Chellamuthu has been proved as per Section 63 of the Indian Evidence Act, 1872?

2) Whether the settlement deed, dated 12.12.2007 is true and whether it has been proved and whether mere marking of the settlement deed amounts to proof of their contents?

3) Whether the failure of the defendants to examine the vendor of the sale deed, dated 29.01.2008 and the persons connected with the execution of the settlement deed and its attesting witnesses attracts section 114G of the Indian Evidence Act and whether an adverse inference has to be drawn against the defendants?

4) Whether on account of the execution of the Will in favour of Chellamuthu, Perumayee is barred from executing the settlement deed since no one can pass a better title than what he has got?

5) Whether the finding of the first Appellate Court that the plaintiffs are not entitled to the permanent injunction is result of admission of inadmissible, immaterial and irrelevant evidence



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and rejection of material admissible and relevant evidence and whether such a perverse and legally unacceptable finding is liable to be set aside under Section 100 of the CPC

6) Whether the failure of the first Appellate Court to frame proper points for consideration under Order 41 Rule 31 CPC has vitiated the hearing of the first appeal and resulted in miscarriage of justice to the plaintiffs since the suit has been wrongly dismissed by the first appellate Court?

10. The learned counsel for the appellants/plaintiffs has argued that the second son executed Ex.A.2 – Will, dated 16.09.2001, conveying his share to his wife Perumayee for her lifetime enjoyment, thereafter to be gone to the plaintiffs 3 and 4. The Will is notarized one. His wife, Perumayee and P.W.2/Sreerengan and P.W.3/Chidambaram attested the Will. On the plaintiffs' side, P.W.2 and P.W.3 were examined and they clearly deposed about the execution of the Will. Chellamuthu died on 13.11.2005 and his wife Perumayee died on 14.12.2007. So, the Will came to effect, thereby the plaintiffs 3 and 4 derived the share of Chellamuthu. The plaintiffs have proved the Will as per Section 63 of the Indian Evidence Act, read with Section 68 of the Indian



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Succession Act. The trial Court held that Ex.A.2 - Will is a genuine one and correctly decreed the suit. But, the first Appellate Court reversed the finding by holding that the Will is not true one as the said Perumayee executed Ex.B.1 - Settlement Deed, dated 12.12.2007, in favour of her father and the signature is found different in Ex.A.2 - Will and Ex.B.1 - Settlement Deed. The first Appellate Court further held that the stamps for Will do not bear continuous serial number and purchased prior to the execution of Will while P.W.2 and P.W.3 deposed that the stamps were purchased on the date of execution of Will. The suit properties have not been partitioned and they are being enjoyed by them as common property. Whiles the said Perumayee had no right to execute any deed, much less a settlement deed which was executed on 12.12.2007, two days prior to her death. The first Appellate Court ought to have held that the settlement deed is not true, but ought to have held that the Will is a genuine one.

11. The learned counsel for the appellants/plaintiffs further argued that the Hon'ble Supreme Court held in such a nature case that if two views are possible, it would only be appropriate to go with the view expressed by the trial court and relied on the ruling reported in **2021 (3) TNCJ 863 (SC)** in the



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case of **V.Prabhakara /v/ Basavaraj K. (died) by LRs and Anr.** The first Appellate Court failed to consider that the Will was executed in the year 2001 and his wife is one of the attestors and the testator died in 2005. P.W.2 and P.W.3 have clearly deposed that the testator was in sound state of mind at the time of execution of Will, this evidence was not shacked by the defendants and relied on the citation reported in **AIR 1959 Supreme Court 443** in **H.Venkatachala Iyengar vs B.N.Thimmajamma and Others** case, hence, the plaintiffs clearly proved the Ex.A.2 - Will as rightly concluded by the trial Court. The first Appellate Court only held that the Will was executed under suspicious circumstances, so the settlement is a valid one, in fact, the settlement deed was not proved by the defendants. Therefore, the judgment of the first appellate court may be set aside, restoring the judgment of the trial Court by allowing this second appeal.

12. Per contra, the learned counsels for the respondents/ defendants argued that the suit properties consist of A.Schedule and B.Schedule. The properties were orally partitioned among three sons of the said Nallathambi. The properties allotted to Chellamuthu were given to 2nd defendant by way of Ex.B.1 settlement deed executed by Perumayee, who



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is the wife of Chellamuthu. The plaintiffs claim that no partition was effected among brothers who enjoyed the properties commonly and that Chellamuthu executed a Will in favour of the plaintiffs 3 and 4 in respect of his 1/3 share. The alleged Ex.A.2 - Will is not true one which creates suspicion. The plaintiffs' side witnesses said that the stamps were purchased on the day of execution, but Ex.A.2 were purchased two days prior to the date of execution of the Will that too the serial numbers of both stamps differed by 14 serial numbers. Moreover, the signature of attestors found in last page, thereafter the signature of Perumayee was subsequently added, the first Appellate Court compared the signature of Perumayee found in Ex.B.1 - settlement deed and Ex.A.2 - Will and came to the conclusion that her signature differs, therefore, the first Appellate Court held that the Will is not genuine one and also held that in case Will already executed, Perumayee could not execute settlement deed in favour of her father. In such circumstances, the title of the party has to be decided first by way of declaration, in the absence of declaratory relief, the suit for bare injunction is not maintainable and the learned counsel relied on the judgment rendered in **Anathula Sudhakar v. P.Buchi Reddy (Dead) by LRs & Ors. case by the Hon'ble Supreme Court** reported in **AIR 2008 SC 2033**.



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13. Further, the learned counsel for the defendants argued that the defendants' case is that the children of another son Nallathambi, were taken care of by 1st plaintiff, but they were brought by their maternal grandfather. During the pendency of this second appeal, the 6th appellant, Palaniaymmal, was transposed as the 5th respondent. She has filed an affidavit in CMP(MD)No.9755 of 2024 in S.A(MD)No.114 of 2015 and in paragraph No.8 of the affidavit, she has specifically averred the above facts and the factum of oral partition among her father and paternal uncles and mutation of revenue records in their respective names. It is her specific version that the property allotted to her father Nallathambi was enjoyed by her after the demise of Nallathambi. To substantiate the same, the defendants marked Ex.B.3 - Panchayat Muchalika, in which the 2nd plaintiff is a party, this was not denied by the 2nd plaintiff. Hence, there is a cloud of title between the rival parties. In these circumstances, the parties are co-owners and hence no injunction can be sought against co-owner by relying on the judgment of this Court rendered in **S.Venkatersh Babu /v/ Swetha** case reported in **2010 3 Law Weekly 33**.

14. The learned counsel for the defendants has further argued that the execution of sale deed Ex.B.16 by the 2nd defendant in favour of the



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1st defendant is registered one and it was admitted by the 2nd defendant. Hence, there is no need to examine the attesting witnesses therein as that of attesting witness of the Will. Hence, there is no need to examine the 1st defendant as a witness and relied on the decision of the Hon'ble Supreme Court in **Ishwar Dass Jain (Dead) Thr. LRs Vs. Sohan Lal** case reported in **AIR 2000 (SC) 426**. Therefore, the questions of law in the second appeal cannot be decided in favour of the plaintiffs. The first Appellate Court has correctly declined the relief of bare injunction to the plaintiffs by accepting the case of the defendants, there is no need to interfere with that finding, hence, the second appeal may be dismissed.

15. Heard the arguments advanced by both sides and perused the material records of the case. Both parties agreed the relationship of the parties. There were some ancestral properties to Nallathambi, husband of the 1st plaintiff and his brother Silamban. The said two brothers partitioned their ancestral properties. Some of the suit properties were allotted to Nallthambi. The case of the plaintiffs is that the suit properties are commonly enjoyed by the sons and wife of Nallathambi and that the 2nd son, Chellamuthu and his wife Perumayee, had no issues out of wedlock, and so they executed Ex.A.2 –



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Will, dated 16.09.2001, in favour of plaintiffs 3 & 4, enjoyable after the death of his wife Perumayee. The contra case of the defendants is that the properties were orally partitioned among the three sons of Nallathambi, allotting some property to their mother, Chinnapillai, 1st plaintiff herein. It is their further case that the share of Chellamuthu was conveyed by his wife, Perumayee, to her father 2nd defendant herein, by way of Ex.B.1 - Settlement Deed, dated 12.12.2007.

16. On perusal of records, the defendants produced Ex.B.3 - Muchalikka to substantiate that the partition took place among three brothers and it is stated by the defendants that the 2nd son, Ganesan, signed the said Muchalikka. This version is not specifically denied by the plaintiffs and also the 2nd plaintiff/Ganesan, has not denied the signature found in Ex.B.3 - Muchalikka. The contents of Ex.B.3 - Muchalika clearly shows that the maternal grandfather of minor plaintiffs 6 and 7 was appointed as guardian for them and they had to enjoy the properties allotted to Nallathambi, who was the father of minor plaintiffs 6 and 7. This document disproves the case of the plaintiffs that they have been commonly enjoying the suit properties, whereas it strengthens the case of the defendants that the suit properties were already



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orally partitioned among three sons of Nallathambi and 1st plaintiff. At this juncture, it is pertinent to note that during the pendency of this second appeal, the 6th plaintiff has been transposed as the 5th respondent on the defendants' side in this second appeal. The 6th plaintiff/5th respondent has filed an affidavit along with the petition in C.M.P(MD)No.9755 of 2024 in SA(MD)No.114 of 2015. On perusal of the affidavit, it is clear that she has specifically averred about the oral partition among her father and paternal uncles and also the mutation of revenue records in their respective names. It is her specific averment that the property allotted to her father, Nallathambi, was enjoyed by her after the demise of Nallathambi. This version was not specifically denied by the plaintiffs' side, even there is no objection raised on the plaintiffs' side. Therefore, the defendants established an oral partition.

17. On perusal of records, the defendants stated the necessity for the said Perumayee to execute Ex.B.1- Settlement Deed to her father is that she and her husband Chellamuthu fell ill and so her father obtained loans for their medical treatment. The defendants' side produced medical records of the treatment taken by Chellamuthu and Perumayee. The plaintiffs have not questioned the authenticity of the said medical records. Hence, the defendants showed



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sufficient cause for execution of Ex.B.1 - Settlement Deed by Perumayee in favour of her father 2nd defendant/Thiruvengadam. The defendants have also marked adangal extracts in the name of the 2nd defendant after mutation of the revenue records.

18. At this juncture, the plaintiffs claim right over the property by way of Ex.A.2 - Will, which was said to have been executed by Chellamuthu in favour of plaintiffs 3 and 4. They also submitted that P.W.2, P.W.3 and Perumayee signed the Will and that P.W.2 and P.W.3 were examined to prove the Ex.A.2 - Will. The first Appellate Court came to the conclusion that PW2 and PW.3 have not deposed to have seen the putting of the signature by Perumayee. The first Appellate Court compares the signature of Perumayee found in Ex.A.2 and Ex.B.1 and found difference between the signatures. Moreover, it was also held that if her husband had already executed a Will regarding the undivided share, there is no necessity for Perumayee to execute Ex.B.1- Settlement Deed in respect of the allotted share of Chellamuthu. On perusal of the evidences and documents, this Court upheld this finding as acceptable one.



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19. In this case, both the plaintiffs and the defendants made rival claims over the suit property. The suit is filed for bare injunction alone. If the defendants raised a genuine dispute about the enjoyment of the plaintiffs over the suit property shrouded by cloud of suspicious over the title of the property, the plaintiffs must seek or amend the plaint for declaration of their title. Once a person coming to Court for discretionary relief of injunction, he must come to the Court with a definite title over the property. It is well settled dictum of the Hon'ble Supreme Court that when there is any cloud on the title of property within the mentioned four boundaries, a suit for bare injunction is not maintainable and they ought to have sought relief of declaration. So, without declaration, the suit for bare injunction is not maintainable. A suit simplicitor for injunction will not be maintainable when the title of the property of the plaintiff was disputed by the defendant.

20. The Hon'ble Supreme has settled legal position in **Anathula Shudhar case** reported in **(2008) 4 Supreme Court Cases 594** and held in paragraph No. 21(c) as follows:-

“21.(c) But a finding on title cannot be recorded in a suit for injunction, unless there are necessary pleadings and appropriate issue



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regarding title [either specific, or implied as noticed in Annaimuthu Thevar (supra)]. Where the averments regarding title are absent in a plaint and where there is no issue relating to title, the court will not investigate or examine or render a finding on a question of title, in a suit for injunction. Even where there are necessary pleadings and issue, if the matter involves complicated questions of fact and law relating to title, the court will relegate the parties to the remedy by way of comprehensive suit for declaration or title, instead of deciding the issue in a suit for mere injunction.”

Hence, the reliance placed by the defendants' side on **Anathula Sudhakar** case is squarely applicable to the facts of this case. The citations relied on by the plaintiffs are not applicable to the facts of this case.

21. The plaintiffs have come to Court, so they are bound to prove their case by adducing valid and convincing evidences. The plaintiffs have to stand on their own case with evidences. The trial Court has not considered all these aspects. The 1st Appellate Court has correctly appreciated the evidence and held that the plaintiffs have not established their case for the relief of permanent injunction and hence, the first Appellate Court rightly reversed the



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findings of the trial Court. Therefore, this Court holds that the plaintiffs are not entitled to an injunction for the suit property in its entirety in the absence of finding their title over the property. The questions of law in the second appeal are answered against the appellants/plaintiffs. Thus, this second appeal fails.

22. In the result, the Second Appeal is dismissed. The judgment and decree dated 27.06.2014 passed in A.S.No.38 of 2011 on the file of the First Additional Sub Court, Tiruchirappalli at Thuraiyur, reversing the judgment and decree, dated 30.10.2010 passed in O.S.No.52 of 2008 on the file of the District Munsif Court, Thuraiyur, is confirmed. No costs. Consequently, connected Miscellaneous Petition is closed.

05.01.2026

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
VSD



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To

- 1.The I Additional Sub Court,
Tiruchirappalli at Thuraiyur.
- 2.The District Munsif Court,
Thuraiyur.
- 3.The Record Keeper,
Vernacular Records,
Madurai Bench of Madras High Court,
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P.VADAMALAI, J.

VSD

**Pre-Delivery Judgment made in
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and
M.P(MD)No.2 of 2015**

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