



S.A(MD)No.30 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 16.02.2026

DELIVERED ON : 27.02.2026

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

**S.A.(MD).No.30 of 2026
and
C.M.P.(MD)No.1291 of 2026**

1.P.Sakthivel

2.P.Valli

: Appellants/Appellants/Plaintiffs

Vs.

1.K.Raman

R.Mariammal(died)

2. P.Katchamma(died)

3.Ramalakshmi @ Jakkammal

4.Muthulakshmi

5.Thangameena

6.Sakkaraimoorthy

: Respondents 1 to 6/Respondents 1, 3 to7/
Defendants

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, to set aside the decree and judgment passed by the learned Sub Judge,



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Thirumangalam in A.S.No.42 of 2017, dated 05.08.2019 and confirming the judgment and decree passed in O.S.No.118 of 2013, dated 22.06.2016, on the file of the District Munsif cum Judicial Magistrate, Peraiyur.

For Appellants : Mr.A.Shahul Hameed

For Respondents : Mr.M.Gnana Gurunathan
for R.1, R.3, R.4, R.6
:Mr.A.Nallathambi Raj
for R.2

: No Appearance for R.5

JUDGMENT

The Second Appeal is directed against the judgment and decree made in A.S.No.42 of 2017, dated 05.08.2019, on the file of the Subordinate Court, Thirumangalam, confirming the judgment and decree, passed in O.S.No.118 of 2013, dated 22.06.2016, on the file of the District Munsif cum Judicial Magistrate Court, Peraiyur.

2. The appellants are the plaintiffs. The appellants filed the suit claiming the reliefs of declaration that the suit property belongs to them and for consequential permanent injunction restraining the defendants and their men from



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in any way interfering with the plaintiffs' peaceful possession and enjoyment of the suit property. The defendants filed their written statement and contested the suit.

3. The learned District Munsif, Peraiyur, after framing necessary issues and after full trial, passed the judgment and decree dated 22.06.2016, dismissing the suit with compensatory costs. Aggrieved by the dismissal of the suit, the plaintiffs preferred an appeal in A.S.No.42 of 2017 and the learned Subordinate Judge, Thirumangalam, considering the materials available on record and on hearing the arguments of both sides, passed the impugned judgment and decree dated 05.08.2019, dismissing the appeal and thereby confirming the judgment and decree of the trial Court. Challenging the dismissal of the appeal, the plaintiffs have filed the present Second Appeal.

4. At the outset, it is necessary to refer the mandate of Hon'ble Supreme Court for High Courts in deciding the second appeal under Section 100 of the Civil Procedure Code, given in the case of ***Gurnam Singh (dead) by LRs., and others Vs. Lehna Singh (dead) by LRs.***, reported in ***AIR 2019 SC 1441***, that the jurisdiction of the High Court in an appeal under Section 100 of the Code of Civil



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Procedure is strictly confined to the case involving substantial question of law and the relevant passage is extracted hereunder:

*“18. Before parting with the present judgment, we remind the High Courts that the jurisdiction of the High Court, in an appeal under Section 100 of the CPC, is strictly confined to the case involving substantial question of law and while deciding the second appeal under Section 100 of the CPC, it is not permissible for the High Court to re-appreciate the evidence on record and interfere with the findings recorded by the Courts below and/or the First Appellate Court and if the First Appellate Court has exercised its discretion in a judicial manner, its decision cannot be recorded as suffering from an error either of law or of procedure requiring interference in Second Appeal. We have noticed and even as repeatedly observed by this Court and even in the case of *Narayanan Rajendran v. Lekshmy Sarojini*, (2009) 5 SCC 264, despite the catena of decisions of this Court and even the mandate under Section 100 of the CPC, the High Courts under Section 100 CPC are disturbing the concurrent findings of facts and/or even the findings recorded by the First Appellate Court, either without formulating the substantial question of law or on framing erroneous substantial question of law.”*

5. The Hon'ble Supreme Court in the case of ***Chandrabhan Vs. Saraswati and others*** reported in **2022 SCC OnLine SC 1273** has specifically held that right



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of appeal is not automatic and right of appeal is conferred by statute and when statute confers a limited right of appeal restricted only to cases which involve substantial questions of law, it is not open to the High Court to sit in appeal over the factual findings arrived at by the First Appellate Court and the Hon'ble Supreme Court summarized the principles relating to Section 100 C.P.C., which are as follows;

“(i) An inference of fact from the recitals or contents of a document is a question of fact. But the legal effect of the terms of a document is a question of law. Construction of a document involving the application of any principle of law, is also a question of law. Therefore, when there is misconstruction of a document or wrong application of a principle of law in construing a document, it gives rise to a question of law.

(ii) The High Court should be satisfied that the case involves a substantial question of law, and not a mere question of law. A question of law having a material bearing on the decision of the case (that is, a question, answer to which affects the rights of parties to the suit) will be a substantial question of law, if it is not covered by any specific provisions of law or settled legal principle emerging from binding precedents and involves a debatable legal issue. A substantial question of law will also arise in a contrary situation, where the legal position is clear, either on account of express provisions of law or binding precedents, but



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the court below has decided the matter, either ignoring or acting contrary to such legal principle. In the second type of cases, the substantial question of law arises not because the law is still debatable, but because the decision rendered on a material question, violates the settled position of law.

(iii) The general rule is that the High Court will not interfere with findings of facts arrived at by the courts below. But it is not an absolute rule. Some of the well-recognised exceptions are where (i) the courts below have ignored material evidence or acted on no evidence; (ii) the courts have drawn wrong inferences from proved facts by applying the law erroneously; or (iii) the courts have wrongly cast the burden of proof. When we refer to "decision based on no evidence", it not only refers to cases where there is a total dearth of evidence, but also refers to any case, where the evidence, taken as a whole, is not reasonably capable of supporting the finding."

6. Bearing the settled legal position in mind, let us proceed with the present case.

7. The case of the plaintiffs is that the suit property which is a vacant site admeasures 8 cents classified as punja land out of 15 cents in Survey No.100/6 in Chinnapoolampatti Village, Peraiyur Taluk, Madurai District is owned by the



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plaintiffs ancestrally. The plaintiffs executed a registered Power of Attorney deed dated 05.09.2002 in favour of the first defendant giving power to deal with the suit property. The plaintiffs have not received any money from the first defendant on the date of execution of power deed. After executing Power of Attorney deed, the attitude of the first defendant has changed and failed to comply with the conditions of the said deed. Hence, the plaintiffs were constrained to cancel the said power deed on 05.01.2003 orally in the presence of one Murugan and the first defendant has also accepted the same. While so, the first defendant executed a sale deed in favour of the third defendant in respect of two cents in the suit property on 23.04.2003 and again another sale deed in respect of remaining six cents on 06.02.2000 in favour of the second defendant who is none other than his wife. The defendants 2 and 3 have included their names in the patta. The plaintiffs, after coming to know about the alienations, issued a legal notice on 24.02.2007 to the defendants 1 to 3 and to the Tahsildar, Peraiyur Taluk office and the District Collector, Madurai. The defendants 1 to 3 having received the legal notice, sent a reply notice admitting the alienations. The suit property is not demarcated till now. The plaintiffs were enjoying the suit property along with the larger extent. The plaintiffs have constructed a house in 7 cents and enjoying the remaining 8 cents by dumping waste and padappadi. The defendants with an intention to grab the suit property, have created documents and came to the suit



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property on 18.03.2007 along with henchmen to dispossess the plaintiffs, but the same was thwarted. Hence, the plaintiffs were forced to file the above suit.

8. The defence of the defendants is that the plaintiffs have appointed the first defendant as their power agent for the suit property on 05.09.2002 through power deed and the first defendant has paid Rs.10,000/- for the consideration of the sale to the plaintiffs for which the plaintiffs have given a sale receipt. Moreover, the first defendant has spent Rs.1,00,000/- to develop the suit property. ON 22.04.2003, the first defendant executed a sale deed in favour of the third defendant with respect to three cents and executed another sale deed in favour of the second defendant on 06.02.2006 with respect to the remaining six cents, in pursuance of the power deed. The defendants 2 and 3 had taken possession of the suit property and also got the patta changed. The defendants have issued a proper reply notice in response to the legal notice of the plaintiffs. The plaintiffs have no cause of action and the alleged cause of action is false and untenable. Hence, the suit is liable to be dismissed.

9. It is not in dispute that the suit property was owned by the plaintiffs ancestrally. It is also not in dispute that the plaintiffs have appointed the first defendant as their power agent for the suit property on 05.09.2002 vide Ex.A.2



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(Ex.B.1) – Power of Attorney deed. It is also not in dispute that the first defendant sold two sents of land in the suit property in favour of the third defendant on 22.04.2003 under Ex.B.2 sale deed and sold the remaining six cents of land on 06.02.2000 in favour of the second defendant under Ex.B.3 sale deed.

10. It is the specific contention of the plaintiffs that they have cancelled the power deed orally on 05.01.2003 in the presence of one Murugan who is examined as P.W.2. It is pertinent to note that P.W.2 himself in his evidence would admit that no cancellation deed was executed and the relevant portion of his evidence as referred by the trial Court is extracted:

“஁மற்படி பவர் பத்திரத்தை ரத்து செய்வது சம்பந்தமாக 05.01.2003 அன்று நடைபெற்ற பங்ஸாயத்தில் முடிவு செய்யப்பட்டது. ஁மற்படி பங்ஸாயத்து ஁பசிய பிறகு எவ்வளவு நாளில் ரத்து செய்ய ஒப்புக்கொண்டார் என்றால் 1ம் பிர்திவாதி பணத்தை கொடுத்துவிடுவதாக ஒப்புக்கொண்டார். ஆதனால் நம்பிக்கையின் ஁பரில் வாதிகள் ஁மற்படி பவரை ரத்து செய்யாமல் விட்டுவிட்டனர். ஆதனால் ஒப்புக்கொண்டபடி பவர் ரத்து செய்து கொடுக்கப்படவில்லை என்றால் சரிதான்.”

11. Even P.W.1 in his cross-examination would admit that after executing the power of attorney deed, he went to Tiruppur for avocation and he worked there for three years. A Power of Attorney is an instrument creating an agency



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within the meaning of Sections 182 to 238 of the Indian Contract Act, 1872.

Though an agency may ordinarily be terminated under Section 201 of the Contract Act (by revocation, renunciation, death, insanity, etc.), where the Power of Attorney itself is a registered instrument, the mode of its revocation assumes legal significance. When a Power of Attorney is executed in writing and registered under the Registration Act, 1908, its cancellation must also be by a written instrument, and duly registered. This is because Registration gives public notice of the authority conferred and third parties are entitled to rely upon the registered Power of Attorney so long as it remains on record and hence, an oral revocation would defeat the very object of registration and create uncertainty in transactions affecting immovable property.

12. In the present case, as already pointed out, it is the specific case of the plaintiffs that they had cancelled the power of attorney orally. As rightly observed by the Courts below, and taking note of the legal position referred to above, such an oral cancellation or revocation cannot be recognised in the eye of law. In the absence of any valid revocation, it has to be presumed that the power of attorney continued to remain in force. Consequently, the sales effected by the first defendant, acting as the power agent of the plaintiffs, cannot be challenged. Since the defendants 2 and 3 have purchased the suit property, the plaintiffs do not



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retain any title or ownership over the suit properties. Hence, the Courts below, on a proper appreciation of the evidence available on record, have rightly come to the conclusion that the plaintiffs are not entitled to any of the reliefs claimed and the same cannot be faulted.

13. The appellants have not shown that material evidence available in the case had been ignored by the first appellate Court or that there was no evidence at all. The appellants have also not shown any wrong inference had been drawn by the first appellate Court from the proved facts by applying law erroneously. The appellants have also not canvassed any stand that the Courts below have wrongly placed the burden of proof.

14. It is pertinent to note that the first appellate Court on appreciating and re-appreciating evidence available on record, has come to a definite decision that the plaintiffs failed to prove their claim and as such, dismissal of suit by the trial Court cannot be faulted.

15. Considering the judgments of the Courts below, this Court is the clear view that no question of law much less Substantial Question of Law is made out.



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It is not open to this Court to sit in appeal over the factual findings arrived at by the first appellate Court confirming the findings of the trial Court. Hence, this Court concludes that since no substantial question of law is made out in the second appeal, the same is liable to be dismissed.

16. In the result, the Second Appeal is dismissed, confirming the the judgment and decree made in A.S.No.42 of 2017, dated 05.08.2019, on the file of the Subordinate Court, Thirumangalam, confirming the judgment and decree, passed in O.S.No.118 of 2013, dated 22.06.2016, on the file of the District Munsif cum Judicial Magistrate Court, Peraiyur. Consequently, the connected Miscellaneous Petition is also dismissed. There shall be no order as to costs.

27.02.2026

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
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To:

1. The Subordinate Court, Thirumangalam.
2. The District Munsif cum Judicial Magistrate Court, Peraiyur.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

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**PRE-DELIVERY JUDGMENT MADE IN
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