



S.A.(MD)No.543 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.04.2026

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

S.A.(MD)No.543 of 2024

and

C.M.P.(MD)No.11787 of 2024

D.Kennedy

... Appellant

Vs.

R.Anthony @ Joly Anthony

... Respondent

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, praying to set aside the judgment and decree dated 24.09.2018 in A.S.No.56 of 2014, on the file of the Subordinate Judge, Sivagangai, confirming the judgment and decree dated 23.04.2013 in O.S.No.133 of 2011, on the file of the Principal District Munsif, Manamadurai and dismiss the suit by allowing the Second Appeal.

For Appellant : Mr.Raja Karthikeyan

For Respondent : Mr.V.Malaiyendran



WEB COPY



S.A.(MD)No.543 of 2024

JUDGMENT

The defendant is the appellant. Challenging the concurrent findings rendered by the trial Court as well as the First Appellate Court, the present Second Appeal has been filed and the same is yet to be admitted.

2.I have heard Mr.Raja Karthikeyan, learned Counsel for the appellant and Mr.V.Malaiyendran, learned Counsel for the respondent.

3.Learned Counsel for the appellant would state that the Courts below have erroneously shifted the burden upon the defendant without calling upon the plaintiff to establish his case and would further contend that when the plaintiff had approached the court, admitting the factum of patta having been issued to the defendant, however, alleging that the defendant had obtained the patta fraudulently, the Courts below ought to have fixed the burden of proof upon the plaintiff alone. Learned Counsel would further state that the plaintiff has not established the plea of forgery and unfortunately, the Courts below, placing erroneous reliance on Exhibits A4 and A5 have decreed the suit.



S.A.(MD)No.543 of 2024

WEB COPY

4.Learned Counsel for the appellant would further contend that the defendant has borrowed loan for purchasing a tractor and had executed a mortgage deed to which the plaintiff himself was a party and hence, the plaintiff was estopped to question the title of the defendant to the suit property. Learned Counsel would further state that the defendant was claiming under an oral sale from the plaintiff himself in the suit and the Courts below ought to have upheld the said plea, when admittedly, patta was issued to the defendant and the defendant has also been in possession of the property.

5.Learned Counsel has suggested the following three substantial questions of law:

i) Whether the revenue records is a prima facie evidence of title of the property or not?

ii) Whether the defendant who is in possession of the suit property has to prove his ownership or the plaintiff has to prove his ownership?

iii) Whether the courts below were wrong in presumption in respect of Patta issued by the statutory authority?



S.A.(MD)No.543 of 2024

WEB COPY

6.Per contra, learned Counsel for the respondent / plaintiff would contend no substantial questions of law arise for consideration and both the Courts have rendered factual findings and rightly placed the burden on the defendant, since the defendant has taken a plea that plaintiff had consented for issuance of patta in the name of the defendant. Learned Counsel would further submit that the defendant has not placed the patta before the Courts below and would further contend that when the defendant had pleaded an oral sale and had also further alleged that the plaintiff himself consented for issuance of patta in the name of the defendant, it is only for the defendant to establish the said plea and rightly the trial Court non-suited the defendant for not taking such defence taken in the plea.

7.I have carefully considered the submissions made by the learned Counsel for the parties and I have also gone through the judgments of the trial Court as well as the First Appellate Court.

8.The plaintiff sought for the relief of declaration and permanent injunction in respect of the suit property, contending that the property is an ancestral property at the hands of the



S.A.(MD)No.543 of 2024

plaintiff and that patta has also been issued to the plaintiff and while so, the defendant illegally changed the patta from the name of the plaintiff to the defendant's name. On coming to know about such fraudulent mutation behind the back of the plaintiff, the plaintiff has filed the suit.

9.The case of the defendant is that the suit property was originally belonging to the plaintiff, but however, the defendant purchased the same orally for a consideration of Rs.50,000/- and was put in possession of the suit property and that based on the oral sale and also consent expressed by the plaintiff, patta was changed in the name of the defendant. According to the defendant, he has been in possession as owner and only because the value of the suit property has increased multi-fold, the plaintiff has filed the suit to extract more money from the defendant.

10.Before the trial Court, the plaintiff examined himself as P.W.1 and one John as P.W.2. On the side of the plaintiff, Exs.A.1 to A5 were marked. On the side of the defendants, the defendant examined himself as D.W.1, one Satheesh as D.W.2 and one Subramanian as D.W.3 and marked Exs.B.1 & B.2.



S.A.(MD)No.543 of 2024

11.The trial Court finding that the plaintiff had established his title to the suit property, which in fact was admitted even by the defendant, excepting for claiming that the defendant had purchased the same by way of oral sale consideration, decreed the suit as prayed for. The defendant preferred First Appeal in A.S.No. 56 of 2014, before the Subordinate Judge, Sivagangai and the learned First Appellate Court dismissed the appeal, confirming the findings of the trial Court.

12.The case of the plaintiff is that the suit property is an ancestral property at the hands of the plaintiff and to substantiate the same, the 'A' register, mortgage deed executed by the plaintiff to the defendant on 28.03.1995, as well as proceedings of the Tahsildar prior to issuance of patta to the plaintiff and also computerised patta issued in patta No.329 in the name of the plaintiff's brother, who was examined as P.W.2 have been exhibited on the side of the plaintiff. On the side of the defendant, he has marked the RC book of the Tractor, which he has purchased by availing loan and Ex.B.2 is registered receipt executed by the mortgagee discharging Ex.A.2 mortgage loan.



S.A.(MD)No.543 of 2024

WEB COPY

13.The Courts below have rightly found that the plea of oral sale set up by the defendant has not been established. In fact even according to the defendant, the alleged sale consideration is to the tune of Rs.50,000/- and in terms of Section 17 of the Registration Act, 1908, any transfer of immovable property by way of sale consideration in excess of Rs.100 requires compulsory registration of the sale deed. Here, despite the consideration being Rs.50,000/- as claimed by the defendant, the document is not even reduced to writing, leave alone the same being registered. The Courts below have rightly disbelieved the oral sale pleaded by the defendant.

14.With regard to the mortgage and Ex.A.2 and discharge receipt in Ex.B.2, scanning the evidence, both oral and documentary, the Courts below have rightly found that there is no evidence to establish that the mortgage was discharged by the defendant. The primordial contention of the defendant was that in pursuance of the oral sale, the plaintiff has consented for mutation of patta from the name of the plaintiff to the name of the defendant. However, in order to establish such consent, the appellant has not been able to produce any such consent letter or affidavit, based on which patta transfer was effected. Even in Ex.A.4, patta was



S.A.(MD)No.543 of 2024

mutated in the name of the plaintiff, pursuant to proceedings of the Tahsildar. In such circumstances, when the defendant contends that based on consent given by the plaintiff alone patta was mutated in the name of the defendant, in the absence of the defendant having established there being any consent in the first place and no proceedings of the Tahsildar concerned to such effect, the case of the plaintiff that the defendant has played fraud in changing the patta from plaintiff's name to defendant's name is more probable. Therefore, the Courts below have rightly non-suited the defendant based on available oral and documentary evidence, testing the said evidence based on the pleadings put forth by the parties.

15.In the light of the above, I am unable to accept the arguments of the learned Counsel for the appellant / defendant that the Courts below have erroneously shifted the burden on the defendant, instead of placing the same on the plaintiff. The plaintiff cannot be called upon to prove the negative. His case is that patta was mutated in the name of the plaintiff and fraudulently patta was changed in the name of the defendant. When the defendant has taken a plea that plaintiff has consented for the same, then the burden is definitely on the defendant to establish the said factum. Admittedly, there is no iota of evidence to establish such change of



S.A.(MD)No.543 of 2024

patta in the name of the defendant based on the consent given by the plaintiff. Further, as already held, the plea of oral sale has also been negated and therefore, in the absence of any inherent right, title or interest in the property, even mere mutation of patta is of no avail. It is settled law that revenue documents like patta are only at best documents of possession and cannot confer title on the person who holds patta or revenue documents. In such circumstances, I do not see any substantial questions of law arising for consideration in the Second Appeal. Both the Courts have appreciated the case on hand meticulously and no interference is warranted under Section 100 of CPC.

16.Accordingly, this Second Appeal stands dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

06.04.2026

Index : Yes / No

NCC : Yes / No

MR



WEB COPY



S.A.(MD)No.543 of 2024

To

1.The Subordinate Judge,
Sivagangai.

2.The Principal District Munsif,
Manamadurai.

3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



S.A.(MD)No.543 of 2024

P.B.BALAJI, J.

MR

JUDGMENT MADE IN
S.A.(MD)No.543 of 2024

06.04.2026