



SA(MD). No.624 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 23.03.2026

Delivered on : 30.03.2026

CORAM

THE HONOURABLE MR. JUSTICE P.B.BALAJI

SA(MD). No.624 of 2025

V.Pandiyan ... Appellant/Appellant / Plaintiff
Vs.
1.Muthusamy
2.Karnan ... Respondents / Respondents / Defendants

PRAYER :- Second Appeal is filed under Section 100 of the Civil Procedure Code, against the decree and judgment made in A.S.No. 227 of 2020 dated 12.02.2024 on the file of the learned Subordinate Judge, Manaparai, confirming the decree and judgment of the learned Additional District Munsif, Manaparai, in O.S.No.72 of 2015, dated 01.11.2019.

For Appellant : Mr.N.Kamesh

For Respondents : Mr.G.Sridharan



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JUDGMENT

The plaintiff, in a suit for declaration and for permanent injunction which has been dismissed by the trial Court and confirmed by the first Appellate Court, is the appellant in the present second appeal.

2. I have heard Mr.N.Kamesh, learned counsel for the appellant and Mr.G.Sridharan, learned counsel for the respondent.

3. The second appeal has not been admitted as on date and I have heard the learned counsel for the parties and also perused the entire records, including the judgments of the Courts below, as well as the pleadings before the trial Court.

4. The case of the plaintiff is that the suit property, amongst other properties are ancestral properties of his father Veeramalai Gounder. The said Veeramalai Gounder executed a settlement deed on 08.11.1984 in favour of the plaintiff. As the plaintiff was minor, one Kaniya Gounder



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was appointed as the guardian of the plaintiff. The plaintiff has been in possession and enjoyment of the suit property for several years. Though the suit property was subdivided as survey No.41/4 and patta was wrongly issued to one Muthusamy Gounder, the plaintiff alone has been in possession and enjoyment of the property and on coming to know of the incorrect patta, the plaintiff in 2014, approached the revenue officials for necessary mutation in his name. Muthusamy Gounder in whose name patta was issued also died intestate, without any issues. The defendants have no right over the suit property. They demanded to purchased the suit property and since the plaintiff refused, they have claimed right under Muthusamy Gounder and attempted to interfere with the plaintiff's possession of the suit property. The plaintiff gave a police complaint and also lodged a petition before the Village Panchayat, alleging illegal attempts on the part of the defendants. Hence, the plaintiff filed the suit seeking for declaration and consequently for permanent injunction.

5. The suit was resisted by the defendants, contending that the defendants are related to plaintiff on their paternal side and a common



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ancestor, viz., Annavi Gounder and in respect of the suit property, patta was in the name of Muthusamy Gounder, the paternal uncle of the defendants and after his demise, the defendants have become the absolute owners of the suit property and the plaintiff's father did not have any right in favour of the settlement deed and that the plaintiff has no cause of action to file the suit.

6. At trial, the plaintiff examined himself as P.W.1 and one Thangavel examined as P.W.2 and 11 documents were marked as Ex.A1 to Ex.A11. On the side of the defendants, the first defendant examined himself as D.W.1 and four documents were marked as Ex.B1 to Ex.B4.

7. The trial Court found that the plaintiff was not in possession and had not established how his father became entitled to S.F.No.41/4 and dismissed the suit.

8. Aggrieved by the dismissal of the suit, the plaintiff filed A.S.No. 227 of 2020 before the Subordinate Judge, Manapparai. The first



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Appellate Court confirmed the findings of the trial Court and dismissed the appeal.

9. As against the concurrent findings, the present second appeal has been filed.

10. Arguments of the learned counsel for the appellant/plaintiff:

The learned counsel for the appellant/plaintiff would state that the Courts below have not taken note of the fact that in Ex.A7 mortgage deed executed in favour of third party, the second defendant was a witness to the said document and therefore, the defendants were fully aware of the fact that the ownership of the suit property in SF.No.41/4 was only with the plaintiff's family. He would further state that for proving possession, P.W.2 has been examined and P.W.2 is the adjoining land owner, viz., Thangavel, who has clearly spoken about the possession of the suit property being only with the plaintiff, and not with the defendants. It is the case of the appellant/plaintiff that the Courts below have not considered the material documentary evidence in Ex.A5 and Ex.A7, as



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well as oral evidence of P.W.2. In such circumstances, the judgment of the Courts below are liable to be interfered under Section 100 of the Code of Civil Procedure, as substantial questions of law arise for consideration.

11. Arguments of the learned counsel for the respondents/defendants:

11. Per contra, Mr.G.Sridharan, learned counsel for the respondents would state that expect the settlement deed marked as Ex.A2, which was executed by the vendor of the plaintiff, the plaintiff has not filed any document to establish valid title to the suit property. As regards Ex.A5, the sale deed executed in the year 1968, where the Eastern boundary is marked to be the property of the vendor of the plaintiff, viz., suit property, the learned counsel would contend that the parties to Ex.A5 has not been examined and the neighbour, who was examined as P.W.2 was not a witness to Ex.A5. He would therefore state that the Courts below have rightly held that the plaintiff has not established title as well as possession. With regard to Ex.A7, the learned counsel for the respondent, Mr.Sridharan, would submit that mere



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attestation of the document would not imply that the witness was aware of the contents of the document and therefore, even in this regard, it is the submission that no error has been committed by the trial Court as well as the first Appellate Court, warranting interference in appeal.

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

13.Discussion:

13.1. As rightly contended by the learned counsel for the respondents, Mr. Sridharan, the only document on which the plaintiff bases his claim for title is the settlement deed in his favour, marked as Ex.A8, dated 18.11.1984. The plaintiff has not been able to establish as to how his father became entitled to the suit property and whether he had right, title and interest to convey, in the first place, by way of Ex.A2, settlement deed. Reliance is placed Ex.A5 and Ex.A7. Insofar as Ex.A5, though it is shown that one of the boundaries to the schedule in Ex.A5 mentions the Eastern boundary as belonging to the plaintiff's favour, in



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order to establish the document as well as the description of the property, none of the parties in Ex.A5 have been examined by the plaintiff. Even insofar as Ex.A7, the mere fact that the second defendant is an attesting witness to the mortgage deed executed in respect of the suit property, it is settled law that an attesting witness need not necessarily know the contents of the document, unless it is established by adducing satisfactory evidence in that regard. No such attempt has been even made by the defendants. I do not see how Ex.A5, in any manner, lends support to or upholds the title of the plaintiff.

13.2. The Courts below have also found that the revenue records are also mutated in the name of the defendants and the plaintiff has not been able to substantiate the claim of possession as well. In fact, the first appellate Court has taken note of the fact that the plaintiff himself admitted that he is not in a position to even mention the boundaries to the suit property and on the contrary, even confirmed that the suit property is with the defendants.



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14.Result:

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In view of the above, I do not see any substantial question of law arising for consideration. In fine, this Second Appeal is dismissed. However, there shall be no order as to costs.

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

TO

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



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P.B.BALAJI,J.

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**Pre-delivery Judgment made in
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