



S.A(MD)No.633 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 22.01.2026

DELIVERED ON : 12.02.2026

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

S.A.(MD).No.633 of 2025

and

C.M.P.(MD)No.20208 of 2025

1.R.Raman Konar
2.R.Swaminathan
3.R.Srirama Jayam

: Appellants/Appellants/Defendants

Vs.

T.S.Govindara(Died)

1.G.Gomathy
2.G.Gurunathan
3.G.Balaguru
4.S.Rajeshwari

: Respondents/Respondents/
Plaintiffs

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the judgment and decree of the learned Principal Subordinate Judge, Kumbakonam, dated 17.07.2025 in A.S.No.9 of 2022, confirming the judgment and decree, dated 30.11.2021, in O.S.No.447 of 2019, of the learned District Munsif cum Judicial Magistrate, Thiruvadaimarudhur.



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For Appellants : Mr.C.Mahadevan

JUDGMENT

The Second Appeal is directed against the judgment and decree made in A.S.No.9 of 2022, dated 17.07.2025, on the file of the Principal Subordinate Court, Kumbakonam, confirming the judgment and decree passed in O.S.No.447 of 2019, dated 30.11.2021, on the file of the District Munsif cum Judicial Magistrate Court, Thiruvadaimarudhur.

2. The appellants are the defendants. The deceased plaintiff filed a suit in O.S.No.447 of 2019, against the appellants/defendants claiming permanent injunction restraining the defendants and their men in any manner interfering with the plaintiff's peaceful possession and enjoyment of the suit properties.

3. The defendants filed their written statement and contested the suit. The learned District Munsif, after framing necessary issues and after full trial, passed a judgment and decree, dated 30.11.2021, granting the relief of permanent injunction as prayed for. Challenging the judgment and decree in favour of the



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plaintiff, the defendants preferred an appeal in A.S.No.9 of 2022, on the file of the Principal Subordinate Court, Kumbakonam and pending the first appeal, the sole plaintiff died and his legal representatives were impleaded as respondents 2 to 5. The learned Principal Subordinate Judge, Kumbakonam, upon considering the materials available on record and on hearing the arguments of both sides, passed the impugned judgment and decree, dated 17.07.2025, dismissing the appeal and thereby confirmed the judgment and decree of the trial Court. Aggrieved by the dismissal of the appeal, the defendants have preferred 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 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



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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 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



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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 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.



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(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 plaintiff is that the suit properties, which are agricultural lands situated in Veppathur Village in thiruvidadaimarudur Taluk were owned originally by one Rukmani, as she had purchased the first item of the suit properties, vide sale deed dated 10.08.1980, registered as Document No.2542/1980 and item Nos.2 and 3 of the suit properties vide sale deed dated 10.08.1980 registered as document No.2543/1980. Since the date of sale deeds, the said Rukmani had been in possession and enjoyment of the suit properties and



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she was cultivating the same. The plaintiff purchased the first item of the suit property on 23.09.2013 registered as document No.2265/2013 and he purchased the items 2 and 3 of the suit properties on 23.09.2013 registered as document No. 2266/2013 from the said Rukmani. The Tahsildhar of Thiruvidadaimarudur transferred the patta in respect of the suit properties in favour of the plaintiff and chitta and adangal stands in the name of the plaintiff. The first defendant along with his sons – defendants 2 and 3 wanted to purchase the suit properties from the said Rukmani for a lower price and hence, she declined to sell the same and that therefore, there existed enmity between them. After the purchase, the defendants approached the plaintiff and directed him to sell the suit properties, but the said request was rejected. The defendants having enmity, attempted to interfere with the plaintiff's peaceful possession and enjoyment of the suit properties on 17.11.2013, but the same was thwarted with the help of the neighbours. Since the defendants were making arrangements to interfere again, the plaintiff was constrained to file the above suit seeking permanent injunction.

8. The defence of the defendants is that Rukmani Ammal is none other than the sister of the first defendant, that the said Rukmani Ammal had entered into a sale agreement with the first defendant on 20.09.1993 and received the sale consideration of Rs.30,000/- and handed over the possession of the suit property



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along with title deeds. The said Rukmani Ammal had agreed to execute a sale deed free of encumbrance either to the first defendant or to his nominees at his convenience. The first defendant was all along ready and willing to have the sale deed executed at his cost, but the said Rukmani Ammal was evading to do so. Hence, the first defendant sent a legal notice dated 03.01.2005 calling upon her to execute a sale deed, but she sent a reply notice on 12.01.2005 containing false averments. Hence, the first defendant filed a suit for specific performance in O.S.No.43 of 2005, on the file of the District Munsif Court, Valangaiman and when the suit was in part heard stage, the same was dismissed on 31.03.2006. The first defendant preferred an appeal in A.S.No.81 of 2006 and the Subordinate Court, Kumbakonam allowed the appeal on 28.02.2008 and remanded the suit to the trial Court for fresh disposal and directed the parties to appear on 02.04.2008. Since the first defendant was not given notice of hearing, she was not present in the Court on 21.04.2008 and the suit was dismissed for default. The first defendant, after coming to know about the dismissal of the suit, filed an application on 25.04.2008 for restoration of the suit, but the said application was returned for certain defects. After several returns, the application was taken on file in I.A.No.744 of 2013 on 24.09.2013 and thereafter the said petition was allowed on 12.02.2014 and the said suit is pending in O.S.NO.49 of 2004. The said Rukmani Ammal, after having knowledge about the pendency of the suit,



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had colluded with the plaintiff and executed the sale deeds dated 25.09.2013 in order to deprive the first defendant's valuable rights. The said sale deeds are not genuine documents and are not supported by consideration and that they are sham and nominal documents. Moreover, the said sale deeds are hit by lis pendens and hence the plaintiff is not entitled to get the equitable relief of permanent injunction. The defendants are in actual possession and enjoyment of the suit properties ever since 20.09.1993 and as such, they had neither the occasion nor the necessity either to interfere or to make any attempt to interfere with the plaintiff's possession. Hence, the suit is liable to be dismissed.

9. When the appeal was taken up under the caption “adjourned admission”, the learned Counsel for the appellants filed an additional typed set of papers, producing the copies of the judgment and decree made in A.S.No.77 of 2024, dated 21.08.2025, on the file of the Principal Subordinate Court, Kumbakonam. The learned Counsel for the appellants would submit that the suit for specific performance in O.S.No.43 of 2008 was transferred to the file of the Court of the District Munsif cum Judicial Magistrate, Thiruvidadaimaruthu and numbered as O.S.No.63 of 2019 and after full trial, the suit was dismissed vide judgment and decree dated 30.09.2024 and challenging the same, the first defendant herein preferred an appeal in A.S.No.77 of 2024 and the learned Principal Subordinate



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Judge, vide judgment and decree, dated 21.08.2025 allowed the appeal and thereby setting aside the judgment and decree of the trial Court and granted the relief of specific performance as prayed for.

10. It is pertinent to note that the appellants have produced copies of the judgment and decree passed in A.S.No.77 of 2014, whereby the suit for specific performance filed by the first appellant herein against the original owner, Rukmani Ammal, came to be decreed by reversing the judgment and decree of the trial Court dismissing the said suit. However, admittedly, no petition seeking reception of additional evidence has been filed. Even assuming, for the sake of argument, that the judgment and decree passed in A.S.No.77 of 2014 are taken into consideration, the same would not have the effect of upsetting the concurrent findings rendered by the Courts below.

11. It is not in dispute that the suit for specific performance filed by the first defendant was dismissed on 31.03.2006 and that, in the appeal filed by the first defendant in A.S.No.81 of 2006, the matter was remanded to the trial Court for fresh disposal. It is also not in dispute that, since the first defendant failed to enter appearance thereafter, the suit was again dismissed for default on 21.04.2008. Though the first defendant filed an application for restoration of the



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suit on 25.04.2008, the same was taken on file in I.A.No.744 of 2013 only on 24.09.2013 and was allowed, after enquiry, on 12.02.2014. Admittedly, the plaintiff had purchased the suit properties on 23.09.2013. Therefore, as rightly observed by the Courts below, as on the date of execution of the sale deeds in favour of the plaintiff, the suit for specific performance filed by the first defendant was not pending. As already pointed out, even the restoration application filed by the first defendant was taken on file only on 24.09.2013 and hence, the finding of the Courts below that the doctrine of lis pendens is not attracted cannot be faulted.

12. It is the specific case of the plaintiff that, subsequent to the purchase, mutation was effected in the revenue records and that he has been in possession and enjoyment of the suit properties. In order to substantiate the same, the plaintiff has produced pattas marked as Exs.A.5 to A.7, which stand in his name in respect of the suit properties. Though the defendants have contended that they have been in possession and enjoyment of the property from 20.09.1993, the date on which the first defendant entered into a sale agreement with Rukmani Ammal, they have not produced even an iota of evidence to substantiate the same. Admittedly, the defendants have not produced any documentary evidence either before the trial Court or before the first appellate Court. On consideration of the



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evidence available on record, the trial Court as well as the first appellate Court have concurrently held that the plaintiff has established his possession and enjoyment of the suit properties and proved the cause of action and is, therefore, entitled to the relief of permanent injunction as prayed for. The said finding does not warrant interference.

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 plaintiff failed to prove his claim for partition 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 concurrent judgments of the trial Court made in O.S.No.447 of 2019, dated 30.11.2021, on the file of the District Munsif cum Judicial Magistrate, Thiruvadaimarudhur and in A.S.No.9 of 2022, 17.07.2025, on the file of the Principal Subordinate Judge, Kumbakonam. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

12.02.2026

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

1. The Principal Subordinate Court, Kumbakonam.
2. The District Munsif cum Judicial Magistrate Court, Thiruvadaimarudhur.
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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