



SA No.1066 of 2003

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 10/03/2026

CORAM:

THE HONOURABLE MS.JUSTICE R.POORNIMA

SA No.1066 of 2003

Jeyaramasawamy Thevar

: Appellant/Appellant/
3rd plaintiff

Vs.

1.Karunanidhi
2.Rathina Thevar (Died)

: Respondents 1 and 2/
Respondents 1 and 3/
Defendants 1 and 3

3.Mahamayee Ammal
4.Senthuran
5.Shanmugam
6.Kaliyammal (Died)

(Respondents 3 to 6 are brought on
record as LR.s of the deceased
2nd respondent, vide Court order,
dated 25/07/2023 made in CMP
(MD)Nos.11529 to 11531 of 2018
in SA No.1066 of 2003)

7.Thavasi Ramalingam
8.Thangamanickam
9.Sumathi
10.Muthumahamayee
11.Rajiv Gandhi

: Respondents 3 to 11

(Respondents 7 to 11 are brought on
record as LR.s of the deceased 6th
respondent, vide Court Order, dated
25/07/2023 made in CMP(MD)Nos.9116
to 9118 of 2023)



SA No.1066 of 2003

PRAYER: This Second Appeal is filed under Section 100 of the Civil Procedure Code, against the decree and judgment of the Principal District Judge, Ramanathapuram, made in AS No.120 of 1998, dated 20/04/2020, confirming the decree and judgment passed in OS No.145 of 1995, dated 12/09/1997 on the file of the District Munsif-cum-Judicial Magistrate, Mudukulathur.

For Appellant : Mr.S.Srinivasa Raghavan
for Mr.R.Rajaraman

For Respondents : Mr.H.Arumugam

JUDGMENT

This second appeal is filed by the third plaintiff as against the decree and judgment, dated 20/04/2000 passed by the Principal District Judge, Ramanathapuram, confirming the decree and judgment passed in OS No.145 of 1995, dated 12/09/1997.

2.The plaintiffs have filed the present suit seeking **declaration of title and permanent injunction** in respect of the suit properties.

2.1.According to the plaintiffs, the suit properties originally belonged to one *Arunachala Thevar*, forming part of **Estate Patta No. 4**,



SA No.1066 of 2003

comprised in Paimash Nos.18, 19, 21, 23, 14, 14/1, 15, 15/1, 10 and 19.

The said Arunachala Thevar died intestate, leaving behind his three sons, namely (1) Ramalinga Thevar, (2) Chithirai Shanmugavelu Thevar, and (3) Sangupandi Thevar, who thereafter succeeded to the properties and were in joint possession and enjoyment, paying kist to the Government.

2.2.Subsequently, with respect to Survey No.22, a **joint patta bearing No.282** was issued in favour of Ramalinga Thevar and Chithirai Shanmugavelu Thevar, and they continued to be in possession and enjoyment of the property by paying taxes.

2.3.Thereafter, Ramalinga Thevar died intestate, leaving behind his sons Karuppaiah Thevar and Sethu Thevar. Similarly, Chithirai Shanmugavelu Thevar died intestate, leaving behind his sons Muthirulandi Thevar, Thirunagalingam, and Jayaramasamy Thevar (the plaintiff herein). Sangupandi Thevar also died intestate, leaving behind his son Ponnusamy Thevar. All the legal heirs continued in joint possession and enjoyment of the suit properties.



SA No.1066 of 2003

2.4.Subsequently, the said properties were partitioned among the co-sharers, and corresponding subdivisions were effected. The total extent of the property measures **18 acres and 18 cents**, and Survey Nos. 22/1 to 22/18 were subdivided and allotted among the three branches of Arunachala Thevar. No patta has been granted in favour of any third party.

2.5.In the said partition, the **first schedule property** was allotted to the second defendant, and the **third schedule property** was allotted to the third defendant, and they have been in possession and enjoyment of the same.

2.6.However, Survey Nos.22/1, 22/3 and 22/18 were **wrongly and fraudulently transferred** in the name of the first defendant, son of Late Muniyasamy Thevar and also in the names of defendants 2 and 3, who have no manner of right, title, or interest in the suit properties. The defendants are total strangers to the family of Arunachala Thevar.

2.7.The plaintiffs have been in **continuous, long, and uninterrupted possession and enjoyment** of the suit properties. The



SA No.1066 of 2003

defendants, in or about the year 1979, created patta in their names without any lawful basis. Taking advantage of such wrongful entries, the defendants attempted to interfere with and encroach upon the peaceful possession of the plaintiffs.

2.8.Hence, the present suit is filed for declaration of the plaintiffs' title and for consequential permanent injunction restraining the defendants from interfering with the plaintiffs' possession.

3.The defendants entered appearance and filed their written statement contending as follows:-

The defendants submit that they have **no manner of right, title, or interest** in respect of the '**A**' and '**B**' **schedule properties**, and therefore deny the allegations of the plaintiffs in respect of the same.

3.1.Insofar as the '**C**' **schedule property** is concerned, the defendants specifically dispute the title claimed by the plaintiffs. According to the defendants, the '**C**' schedule property is an **ancestral property** originally belonging to *Irulandi Thevar* and *Nagalinga Thevar*, who had partitioned the same among themselves. In the said partition, the



SA No.1066 of 2003

portion corresponding to the present 'C' schedule property (described as 'A' schedule in their arrangement) was allotted to Nagalinga Thevar.

3.2.Subsequently, the said property devolved upon his son *Palanivelu Thevar*, and after his demise, his son *Rethina Thevar* (the third defendant herein) succeeded to the property and has been in **continuous possession and enjoyment** of the same till date. The third defendant has also obtained **settlement patta** in his favour and has been regularly paying kist to the Revenue Department.

3.3.The defendants further contend that even in the **mortgage document, dated 29.03.1923** executed by Arunachala Thevar, the boundary recitals clearly refer to the properties belonging to *Irulandi Thevar*, which supports the defendants' title and possession.

3.4.It is further stated that the plaintiffs had earlier objected to the patta granted in favour of the defendants. The **Tahsildar, Muthukulathur**, by order, dated 21.06.1976, rejected the said objection. The plaintiffs did not prefer any appeal against the said order and were advised to approach the Civil Court for appropriate relief.



SA No.1066 of 2003

3.5.Further, the **Revenue Divisional Officer**, by order, dated 09.03.1987, recognized the possession of the third defendant. In the said proceedings, it was recorded that the husband of the first plaintiff had admitted the possession of the defendants.

3.6.The defendants therefore contend that the present suit has been filed **belatedly**, is **barred by limitation**, and is devoid of merits. Hence, they pray that the suit be dismissed with costs.

4. Before the Trial Court, the following issues were framed:-

1.Whether the suit properties 1 to 3 are the absolute separate properties of the plaintiffs 1 to 3?

2.Whether the plaintiffs are in possession and enjoyment of the suit properties for long adverse possession?

3.Whether the plaintiffs identified the third schedule property properly?

4.Whether the third defendant is in possession and enjoyment of the third schedule suit property



SA No.1066 of 2003

*and derived title by way of adverse possession and
whether he is entitled to that property?*

5. Whether the suit is maintainable?

5. On the side of the plaintiffs, two witnesses were examined as PW1 and PW2 and marked Exs.A1 to A21. On the side of the defendants, one witness was examined as DW1 and 26 documents were marked as Exs.D1 to D26.

6. The Trial Court dismissed the suit. Against which, the third plaintiff filed an appeal in AS No.120 of 1998 on the file of the Principal District Judge, Ramanathapuram. That appeal also came to be dismissed.

7. Against which, this second appeal has been preferred by the aggrieved party namely the third plaintiff :-

The learned counsel appearing for the appellant/third plaintiff would submit that the courts below failed to note that Exs.A5, A7, A9 to A11 and A19 shows the sub-division of the third item of the property,



SA No.1066 of 2003

and as such, the appellant has proved his title. The lower appellate court found that the sub division of the survey number 22/28 in the name of Ramalinga Thevar and Chitrai Shanmugavelu Thevar ought to have granted declaratory decree in favour of the appellant with regard to the suit third schedule item. The Trial Court failed to note that Exs.A14 and A17 the copies of the sale deeds in which the boundary for the suit third schedule were shown in the name of the appellant's predecessors in title. Ex.P18 is the Adangal extract, in which the appellant's name has been shown, which is conclusively proved that the appellant is in possession of the property. Ex.B4 is the tampering document and there are interlineations and some other survey numbers were included in different inks and as such no reliance can be placed on the same. The Courts below erred in relying Ex.B5 series and therefore, prays for allowing this appeal.

8.The second appeal has been admitted on the following substantial questions of law:-

1.Whether the Courts below are right in refusing the declaratory relief when they themselves found that there was subdivision in favour of the appellant predecessor?



2.Whether the Courts below were right in rejecting the declaratory relief even after the third respondent admitted title and possession in favour of the appellant in Ex.A14 and Ex.A17?

3.Whether the Courts below are right in relying on Ex.A4 when the same was tampered and interlineations were made?

9.Heard both sides and perused the materials available on record.

Answer to the substantial questions of law:-

10.According to the appellants, the third schedule property, which forms the subject matter of the dispute was allotted to them in an oral partition, the survey number 22/1 was sub-divided to 22/18 and he has relied upon certain documents to establish his possession and enjoyment of the said property.

11.In respect of the third item of the suit property, the learned counsel appearing for the appellant relied upon Exs.A1 and A2 (Estate Patta). However, the survey number relating to the third schedule property does not find a place in the said documents. Further, Exs.A6, A7 and A8, which are notices under Section 9(2), contain interlineations and do not mention any survey numbers.



SA No.1066 of 2003

12.Ex.A9 is patta No.282, in which the name of Arunachala Thevar is found, however, the extent mentioned therein does not tally with Survey No.22/18. Ex.A10 is only a xerox copy and is therefore inadmissible in evidence in the absence of the original. Exs.A11, A12 and A19 are Adangal extracts standing in the name of Ramalinga Thevar, but no document has been produced to show that the said extents stood in the name of the appellants.

13.On the other hand, Exs.B4, B6, B8, and B9 stand in the name of the third respondent. The mortgage deed (Ex.P14) is certificate produced by the respondent establishes that he had mortgaged the suit schedule property and obtained a loan, thereby evidencing possession and enjoyment.

14.The appellant/3rd plaintiff has failed to produce any valid title deeds to establish ownership over the third schedule property. Likewise, no document has been filed to prove continuous possession and enjoyment. It is evident that patta was granted in favour of the defendants as early as in the year 1979 by the Revenue Authorities. Though the plaintiffs had appeared and filed objections, the same were rejected, and



SA No.1066 of 2003

they were advised to approach the competent Civil Court. Upon enquiry, land owner patta No.875 (Ex.B10) was issued in favour of the defendants. The objections raised by the plaintiffs were also considered by the Executive Sub-Divisional Magistrate and Revenue Divisional Officer, Paramakudi, in proceedings dated 09.03.1987 in ROC.C1/1707/86. It was recorded therein that the suit lands stood in the names of Ramalinga Thevar and Chitra Shanmugavel Thevar up to 1974.

15.It is further admitted by the appellant that Survey Nos.22/18 and 16/2A are being enjoyed by respondents 1 and 2 respectively. The appellant has failed to prove, by documentary evidence, that the third schedule property belongs to him. In the absence of satisfactory evidence, and in view of the continuous possession and enjoyment by the respondents, the appellant cannot claim any right over the property. Accordingly, the suit was dismissed by the Trial Court on the ground that the plaintiffs failed to prove their claim.

16.The respondents further contended that the suit is barred by limitation and relied upon the following judgments:-



SA No.1066 of 2003

(i) *Daya Singh and another vs. Gurdev Singh (Dead) by LRs and others, reported in (2010) 2 SCC 194;*
and

(ii) *Shakti Bhog Food Industries Limited Vs. Central Bank of India and another, reported in (2020) 17 SCC 260.*

17.The First Appellate Court also held that the suit was filed belatedly and barred by limitations . This Court concurs with the said finding and holds that the suit is barred by limitation.

18.Accordingly, all the substantial questions of law are answered in favour the respondents.

19.In the result, this second appeal is **dismissed**, confirming the impugned judgment and decree of the Courts below. No costs.

10.03.2026

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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SA No.1066 of 2003

To

- 1.The Principal District Judge,
Ramanathapuram.
- 2.The District Munsif-cum-Judicial Magistrate,
Muthukulathur,
Ramanathapuram District.

Copy to

- 1.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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SA No.1066 of 2003

R.POORNIMA, J.

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Judgment in
SA No.1066 of 2003

10/03.2026