



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-04-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

SA No. 337 of 2026

AND

CMP NO. 11305 OF 2026

D.Vasanthakumar
S/o Dhandapanim
No.46, Rice Mill Street,
Kalapatti, Coimbatore
Also res at
9G, Jothidar Thottam,
Behind NGP College,
Kalapatti Post,
Coimbatore 48

..Appellant(s)

Vs

- A.Jayaram (Died)
1. N.Saraswathi
W/o Nanjappa Konnar,
Res at No.8/9, Nehru Nagar West,
Civil Aerodrome Post, Coimbatore.
 2. C.Nanjappa Konar
S/o Chinnasamy Konnar,
Res at No.8/9, Nehru Nagar West,
Civil Aerodrome Post,
Coimbatore.
 3. N.Kanagaraj
S/o Nanjappa Konnar,
Res at No.8/9, Nehru Nagar West,
Civil Aerodrome Post,
Coimbatore.
 4. N.Jayakumar
Res at No.8/9, Nehru Nagar West,
Civil Aerodrome Post,
Coimbatore.



5. J.Santhanam alias Balaji
S/o Late A.Jayaraman,
Res at College House Mess,
Citra, Kalapatti Road,
N.G.P.College Opposite,
Kalapatti, Coimbatore 641 035.

6. J.Ranjani
S/o Late A.Jayaraman,
Res at College House Mess,
Citra, Kalapatti Road,
N.G.P.College Opposite,
Kalapatti, Coimbatore 641 035.

..Respondent(s)

PRAYER : Appeal filed under Section 100 of C.P.C., to set aside the judgment and decree dated 16.04.2026 made in A.S.No.68 of 2018 on the file of the III Additional Subordinate Judge Court, Coimbatore, confirming the judgment and decree dated 05.06.2008 made in O.S.No.204 of 2008 on the file of the III Additional District Munsif, Coimbatore.

For Appellant(s):	Mr.S.Mukunth, Senior Counsel for Mr.K.Venkatasubban
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Judgment

This Second Appeal has been filed to set aside the judgment and decree dated 16.04.2026 made in A.S.No.68 of 2018 on the file of the III Additional Subordinate Judge Court, Coimbatore, confirming the judgment and decree dated 05.06.2008 made in O.S.No.204 of 2008 on the file of the III Additional District Munsif, Coimbatore.



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2. Heard the learned senior counsel for the appellant and perused the documents and materials available on record.

3. The unsuccessful plaintiff is the appellant herein. The plaintiff filed a suit for bare injunction. The said suit was dismissed. Challenging the same, the plaintiff preferred a First Appeal in A.S.No.68 of 2018. The findings of the Trial Court were upheld by the First Appellate Court. Aggrieved over the concurrent findings of the Courts below, the plaintiff is before this Court.

4. According to the plaintiff, he purchased the suit property from one Lakshmipathi under the sale deed dated 14.12.2007. The third defendant is the husband of the second defendant. The defendants 4 & 5 are the sons of the defendants 2 & 3. The defendants, without having any semblance of right over the suit property, attempted to grab the same from the plaintiff. Apprehending the forceful dispossession of the property by the defendants, the instant suit has been filed seeking bare injunction.

5. The defendants filed a written statement denying the title and possession of the plaintiff over the suit property. According to the defendants, the second defendant purchased the suit property in S.F.No.296/5B under a registered sale deed dated 09.02.1996. The defendants also denied the title of

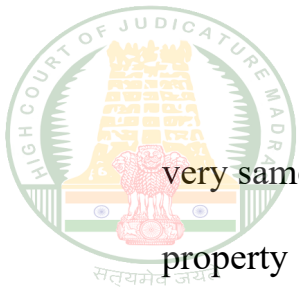


the vendor of the plaintiff over the suit property to convey the same to the plaintiff. It is also stated that immediately after the purchase, the revenue documents were mutated in the name of the second defendant and the defendants were in possession and enjoyment of the same. On these pleadings, the defendants prayed for dismissal of the suit.

6. Before the Trial Court, the plaintiff was examined as P.W.1 and the Assistant of the Sub-Registrar Office was examined as P.W.2 and 6 documents were marked as Exs.A1 to A6. On behalf of the defendants, the third defendant was examined as D.W.1 and 12 documents were marked as Exs.B1 to B12. The documents produced by P.W.2 was marked as Ex.X1 and Ex.X2.

7. The Trial Court, on appreciation of the oral and documentary evidence available on record, came to the conclusion that the plaintiff failed to establish his possession over the suit property and dismissed the suit. Aggrieved by the same, the plaintiff preferred a First Appeal in A.S.No.68 of 2018, on the file of III Additional Sub Court, Coimbatore. The First Appellate Court affirmed the findings of the Trial Court. Aggrieved by the concurrent findings of the Courts below, the plaintiff is before this Court.

8. The learned senior counsel for the plaintiff / appellant submitted that the plaintiff as well as the second defendant had purchased the properties in the



very same survey number from two different persons. According to him, the suit property originally belonged to Venkatasamy Naidu. The said Venkatasamy Naidu had two brothers viz., Narayanasamy Naidu and Paapa Naicker @ Balakrishna Naidu. The learned counsel further submitted that the plaintiff had purchased 28 1/2 cents under Ex.A1 from the descendants of Paapa Naicker @ Balakrishna Naidu. However, the second defendant purchased 50 cents under Ex.B6 from the descendants of Narayanasamy Naidu. In such circumstances, the properties purchased by the second defendant is totally different from the properties purchased by the plaintiff and the Courts below failed to take into consideration the said fact and erroneously dismissed the suit.

9. In the plaint, there is no averment regarding the title of the vendor of the plaintiff. Though it was claimed by the plaintiff at the time of trial that the suit property originally belonged to Venkatasamy Naidu and the plaintiff and the second defendant claiming title under two different brothers, who are descendants of Venkatasamy Naidu, there is no reference about the said fact in the pleadings. It was stated that the property originally belonged to Mallinaar and chinnanarapa Naicker and they had three sons viz., Venkatasamy Naidu, Narayanasamy Naidu and Paapa Naicker @ Balakrishna Naidu. It was further stated that the property mentioned in Ex.A1 was allotted to the son of Paapa Naicker @ Balakrishna Naidu viz., Gopalakrishna Naidu in oral partition and thereafter, his son, the vendor of the plaintiff had acquired the suit property.



However, absolutely there is no evidence available on record to establish the said oral partition. The plaintiff also failed to examine his vendor to establish that the property purchased by the plaintiff under Ex.A1 is different from the property purchased by the second defendant under Ex.B6.

10. A perusal of Ex.A1 and Ex.B6 would indicate that the plaintiff purchased 28 1/2 cents in S.No.296/5B. The second defendant purchased 50 cents in the very same S.No.296/5B. If the boundary description found in both the documents are compared, the eastern and western boundaries mentioned in both the documents are one and the same. However, we are not in a position to correlate the northern and southern boundaries mentioned in the document. The plaintiff failed to establish that the property purchased by him on 14.12.2007 under Ex.A1 is different from the property purchased by the second defendant on 09.02.1996 under Ex.B6. A comparison of the title deeds and the recitals found therein, clearly establishes that there is a serious title dispute between the plaintiff and the second defendant. In such circumstances, a simple suit for bare injunction filed by the plaintiff, without seeking a prayer for declaration of title, is not at all maintainable. Hence, the conclusion arrived at by the Courts below that a simple suit for bare injunction is not maintainable without the prayer for declaration of title, is acceptable to this Court.



11. Further, the plaintiff has not filed any document to establish his possession over the suit property. The only revenue document filed by the plaintiff to establish his possession is Ex.A4 patta. A perusal of the same would indicate that Ex.A4 patta stands in the name of 11 persons. It is also seen that the names of the plaintiff as well as the second defendant are mentioned in Ex.A4 patta. Therefore, it is clear that it is a joint patta issued in the names of 11 persons. From that document, we cannot come to a conclusion that the plaintiff is in exclusive possession of the suit property. When the plaintiff failed to prove the exclusive possession of the suit property, his prayer for bare injunction fails. The Courts below, on appreciation of the oral and documentary evidence, came to the factual conclusion that the plaintiff has not proved his possession. Hence, I do not find any infirmity in the conclusion arrived at by the Courts below. The appellant has not made out any substantial question of law for consideration.

12. Accordingly, this Second Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed. It is made clear that the dismissal of the suit will not come in the way of the appellant / plaintiff filing a comprehensive suit seeking declaration of title and appropriate consequential prayer.

29-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
gsk



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To

- 1.III Additional Subordinate Judge Court, Coimbatore.
- 2.III Additional District Munsif, Coimbatore.

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S.SOUNTHAR J.

GSK

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