



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-07-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Miscellaneous Appeal No.2309 of 2026

and

C.M.P.No.17703 of 2026

D.Saroja
W/o.P.Thangamani

..Appellant

Vs

A.Manivannan
S/o.Arumugam

..Respondent

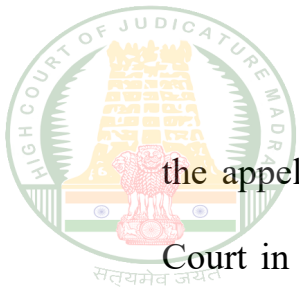
Civil Miscellaneous Appeal filed under Order 43 Rule 1 (U) of Civil Procedure Code as against the decree and judgment dated 25.02.2026 made in AS.No.17 of 2024 on the file of the Principal Subordinate Judge, Chengalpattu, remanding the decree and judgment dated 07.06.2024 passed in OS No.255 of 2015 on the file of the District Munsif at Chengalpattu, thereby remanding the case again to trial court.

For Appellant : Mr.P.Rajendrakumar

For Respondent : Mr.Balan Haridoss
for Ms.E.Sasirekadevi

JUDGMENT

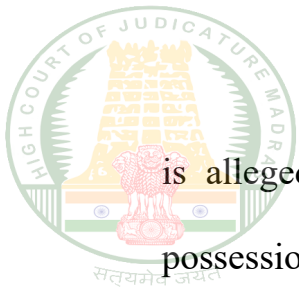
This appeal has been filed under Order 43 Rule 1(U) of the Code of Civil Procedure against the judgment and decree made in A.S.No.17 of 2024 dated 25.02.2026 on the file of Principal Subordinate Judge, Chengalpattu, wherein



the appellate Court had set aside the judgment and decree passed by the trial Court in O.S.No.255 of 2015 dated 07.06.2024 on the file of District Munsif, Chengalpattu and remitted the matter back to the trial Court for fresh disposal and re-trial in accordance with law.

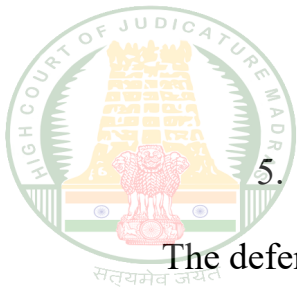
2. Heard learned counsel for appellant and learned counsel for respondent.

3. The plaintiff is the appellant. The plaintiff filed the suit seeking the relief of permanent injunction restraining the defendant from in any manner interfering with the peaceful possession and enjoyment of the suit property. The specific case of the plaintiff is that the suit property was originally owned by one Ranganayaki Ammal and after the demise of Ranganayaki Ammal, her daughters conveyed the suit property in favour of one Jayalakshmi and the said Jayalakshmi conveyed an extent of 18 cents out of the total extent of 36 cents in favour of one Dr.A.Suresh. Similarly, the balance 18 cents was conveyed in favour one Dr.Dinakar Soundarapandiyan and thereby, Dr.A.Suresh and Dr.Dinakar Soundarapandiyan became the absolute owners of the suit property. Subsequently, they conveyed the property in favour of the plaintiff through a registered sale deed dated 24.11.2006 registered as documents Nos.10192/2006 and 10193/2006 respectively. Thus, the plaintiff was claiming to be the absolute owner of the property and had also obtained patta in patta No.1274. While so, it



is alleged that the defendant was attempting to interfere with the peaceful possession and enjoyment of the plaintiff and the same resulted in a suit filed before the trial Court seeking the relief of permanent injunction.

4. The defendant filed a written statement and he denied execution of one of the sale deed dated 07.04.1997 registered as document No.722/1997. Thus, he took a stand that an extent of 1.16 acres was partitioned and 36 cents was allotted to one Yasodha and she was in possession and enjoyment of the same in Survey No.237/1. This survey number was sub-divided as Survey No.237/1A and 237/1B each measuring 0.18 cents. The further case of the defendant is that the said Yasodha through a registered sale deed dated 13.12.1996 sold 0.18 cents in Survey No.237/1B to Jayalakshmi and she retained the remaining extent of 0.18 cents till her death. The defendant virtually challenged the title of S.Rani and S.Sankari with respect to the property in Survey No.237/1A and took a stand that they did not execute any document in respect of the property. After the demise of Yasodha, her legal heirs were in possession and enjoyment of 0.18 cents in S.No.237/1A and they had appointed the defendant as the Power of Attorney agent under a document dated 13.09.2013. The defendant took a stand that the plaintiff is not in possession and enjoyment of Survey No.237/1A and the plaintiff has not impleaded the necessary parties in the suit and accordingly, sought for dismissal of the suit.



5. The plaintiff examined herself as PW-1 and marked Exs.A1 to A32.

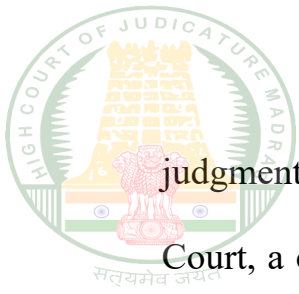
The defendant examined himself as DW-1 and marked Exs.B1 and B2.

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6. The trial Court, on considering the facts and circumstances of the case and on appreciation of evidence, came to a conclusion that the plaintiff is the owner of the suit property and is in peaceful possession and enjoyment of the property and accordingly, decreed the suit by judgment and decree dated 07.06.2024.

7. The defendant, aggrieved by the judgment and decree passed by the trial Court, filed an appeal before the Principal Subordinate Court, Chengalpattu in A.S.No.17 of 2024. The appellate Court, on considering the facts and circumstances of the case and on re-appreciation of evidence, came to a conclusion that the defendant has created a cloud over the title of the plaintiff and it has not been properly decided by the trial Court and necessary parties were not impleaded as defendants and accordingly, the appellate Court by judgment and decree dated 25.02.2026, remitted the matter back to the trial Court for fresh disposal and re-trial. Aggrieved by the same, the present appeal has been filed before this Court.

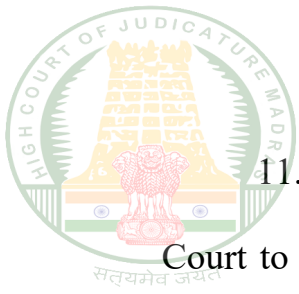
8. In the considered view of this Court, when the appellate Court was deciding the appeal, the oral and documentary evidence were available and the



judgment of the trial Court was available and if according to the appellate Court, a cloud over title has been created by the defendant and consequently, a suit for bare injunction is not maintainable, a judgment ought to have been passed based on the merits of the case and there is absolutely no reason as to why the matter has to be remitted back to the trial Court.

9. It is not necessary for this Court to load this order with various judgments and it will suffice to consider the latest judgment of the Apex Court in ***Uttaradi Mutt v. Raghavendra Swamy Mutt [2019 (1) LW 487]*** on the scope of Order 41 Rule 23 CPC.

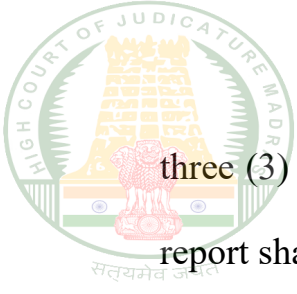
10. The power of the appellate Court to remand is discretionary and it depends upon the nature of dispute, complexity of issues and whether the remand is going to prolong the litigation. Therefore, the Apex Court has repeatedly held that the appellate Court itself can decide the issue unless a case really warrants a re-trial. Even additional evidence can be adduced before the appellate Court under Order 41 Rule 27 CPC. Therefore, the appellate Court cannot remand the matter back to the trial Court in a routine manner unless a case really warrants. In other words, the appellate Court is expected to decide the case on merits and if necessary, by recording additional evidence and remanding the matter back to the trial Court is only an exception and not a rule.



11. In the case in hand, there was absolutely no reason for the appellate Court to remand the matter back to the trial Court and the reasoning given by the appellate Court for remanding the matter back to the trial Court is illegal and unsustainable. The appellate Court has held that there was cloud in the title and necessary parties were not impleaded as defendants. If those are the reasons assigned by the appellate Court, it does not warrant remand and the appellate Court itself could have decided the case on merits. The judgment and decree of the appellate Court remanding the matter back to the trial Court goes against the dictum of the Apex Court in various judgments.

12. This Court intentionally is not going into the merits of the case since this Court is inclined to interfere with the judgment of the appellate Court and remand the matter back to the appellate Court to decide the matter on merits within a time frame.

13. In the light of the above discussion, the judgment and decree passed by the learned Principal Subordinate Judge, Chengalpattu, in A.S.No.17 of 2024 dated 25.02.2026 is set aside. This Court is not satisfied with the manner in which the learned Principal Subordinate Judge, Chengalpattu, has disposed the appeal. Hence, this matter is remanded back to the file of learned Principal District Judge, Chengalpattu, who shall hear the appeal on merits and after affording opportunity to both parties, pass a final judgment within a period of



three (3) months from the date of receipt of a copy of this order. A compliance report shall also be filed after the disposal of the appeal.

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In the result, this Civil Miscellaneous Appeal is allowed with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

23-07-2026

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

To

- 1.The Principal District Judge,
Chengalpattu.
- 2.The Principal Subordinate Judge,
Chengalpattu.



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CMA No.2309 of 2



N.ANAND VENKATESH, J.

gm

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