



WEB COPY

SA No. 281 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-04-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

**SA No. 281 of 2026 and
CMP No.9434 of 2026**

Perumal Naidu (DIED),

Panjavedan alias Munisamy, S/o. Perumal Naidu,
Abigiri Pattarai Village, Karapattu Post,
Ambur Taluk, Vellore District.

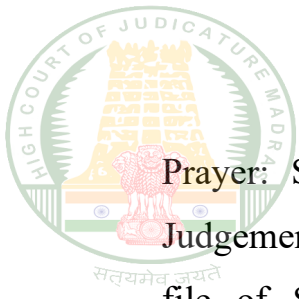
..Appellant(s)

Vs

1. Govindammal, W/o. Late Mayakrishnan,
2. Manjunathan, S/o. Late Mayakrishnan,
3. Saravanan, S/o. Late Mayakrishnan,
4. Renuga, W/o. Viswanathan,
d/o late Mayakrishnan
5. Gowriammal, W/o. Devendiran,
D/o. Late Mayakrishnan,
6. Nalinikumar, W/o. Suresh,
D/o. Late Mayakrishnan,
Respondents are residing at Abigiri Pattarai
Village, Karapattu Post,
Ambur Taluk, Vellore District.

(cause title accepted vide court order dated
02.01.2025 made in CMP No.29136/2024
in SA Sr No.162225/2024.)

..Respondent(s)



Prayer: Second Appeal filed under Section 100 of CPC to set aside the Judgement and Decree Dated 26.02.2024 passed in A.S.No.08 of 2023 on the file of Sub Court, Ambur, Vellore District, confirming the Decree and Judgement dated 30.01.2019 passed in OS.No.33 of 2015 on the file of Principal District Munsif Court, Ambur.

For Appellant(s): Mr. Mr. PA.Sudesh Kumar

For Respondent(s): Ms.M.A.Mumtaj Surya
(vakalat not filed)

JUDGMENT

The unsuccessful 2nd defendant in a suit in O.S.No.33 of 2015 is the appellant herein.

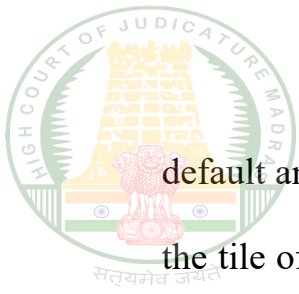
2. The respondents/plaintiffs filed the above said suit seeking recovery of possession of the suit property and the trial court decreed the suit. The appeal filed by the appellants in A.S.No.8 of 2023 was dismissed by the first appellate court, confirming the findings of the trial court. Aggrieved by the concurrent findings of the courts below, the 2nd defendant has filed the present second appeal before this court.

3. According to the respondents/ plaintiffs, the suit property belonged to them. It was stated by the plaintiffs that, their father R.Mayakrishnan filed a suit in O.S.No.66 of 1996 on the file of Principal District Munsif, Ambur



seeking declaration of title over the suit property and also for permanent injunction against one Perumal Naidu (first defendant in the present suit) and pending suit, the said Mayakrishnan died and the respondents/ plaintiffs were brought on record. The plaintiffs further stated that the said suit was decreed by the trial court on 19.12.1997. Subsequently, the 2nd plaintiff filed a suit in O.S.No.28 of 2011 for himself and other plaintiffs seeking bare injunction restraining the first defendant from putting up any construction in the suit property and it was also decreed in favour of the plaintiffs on 29.11.2013. Further, the plaintiffs pleaded that the defendants filed another suit in O.S.No.109 of 2012 seeking bare injunction against the 1st and 2nd plaintiffs on the file of Principal District Munsif, Ambut and the same was dismissed on 04.11.2013. According to the plaintiffs, during December 2014, when they were away from the suit property, taking advantage of the same, the defendants illegally trespassed into the suit property. Hence, the plaintiffs were constrained to file the present suit seeking recovery of possession of the suit property.

4. The 2nd defendant is none other than the son of first defendant. The defendants 1 and 2 filed a written statement denying the right of the plaintiffs to maintain a suit for recovery of possession. The defendants claimed that they have been in possession and enjoyment of the suit property and hence, they filed a suit in O.S.No.109 of 2012 against the plaintiffs seeking bare injunction. It was further pleaded by the defendants that the above said suit was dismissed for



default and they have taken steps to restore the suit. The defendants also denied the file of the plaintiffs over the suit property and also the boundary description of the suit property. Thus, based on their alleged possession, the defendants sought dismissal of the suit.

5. Before the trial court, on the side of the plaintiffs, the first plaintiff was examined as PW1 and 5 documents were marked as Ex.A1 to Ex.A5. On the side of the defendants, 7 witnesses were examined as DW1 to DW7 and 13 documents were marked as Ex.B1 to Ex.B13. The Adangal, Patta and FMB sketch were marked as court documents Ex.C1 to Ex.C3.

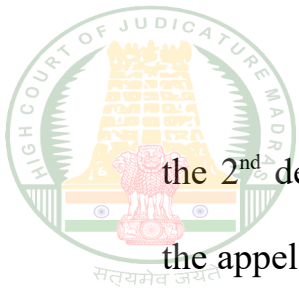
6. The trial court, on appreciation of oral and documentary evidence available on record, decreed the suit. Aggrieved by the findings of the trial court, the defendants filed an appeal in A.S.No.8 of 2003 on the file of Subordinate Judge, Ambur and the same was dismissed by the first appellate court. Challenging the concurrent findings of the courts below, the 2nd defendant has come before this court by filing the present second appeal.

7. The learned counsel for the appellant/2nd defendant would submit that recognising the long possession of the defendants in the suit property, patta was issued in the name of first defendant in the year 2000 and the said document was marked as Ex.B4. He further submitted that the courts below failed to take



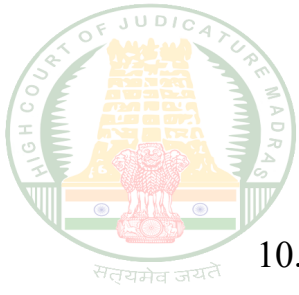
into consideration the patta issued in the name of first defendant and the settlement deed executed by him in favour of 2nd defendant and erroneously decreed the suit for recovery of possession, overlooking the lawful possession of the defendants.

8. The decree passed in the earlier suit in O.S.No.66 of 1996 granting declaration of title and bare injunction in favour of the present plaintiffs was marked as Ex.A1 before the trial court. Like wise, the decree passed in a suit in O.S.No.28 of 2013 granting permanent injunction in favour of the plaintiffs was also marked by the plaintiffs as Ex.A2. Further, the order passed in a suit for injunction in O.S.No.109 of 2012 filed by the defendants against the plaintiffs 1 and 2, which was dismissed for default was marked as Ex.A3. The courts below, taking into consideration the decree passed in favour of the plaintiffs in O.S.No.66 of 1996, factually came to the conclusion that the subject matter of the suit in O.S.No.66 of 1996 and the present suit are one and the same. When the title of the plaintiffs to the suit property has already been declared in their favour by a competent civil court in O.S.No.66 of 1996, the subsequent patta issued in the name of the first defendant cannot be given any weightage. Further, whenever there is a conflict between the decree of competent civil court and the revenue records, the decree of the civil court will prevail over the revenue document. More over, the subsequent settlement deed executed by the first defendant in favour of the 2nd defendant will not confer any fresh right to



the 2nd defendant. Therefore, the submission made by the learned counsel for the appellant that the courts below failed to take into consideration the patta and settlement deed in proper perspective is not appealable to this court.

9. The title of the plaintiffs over the suit property was already declared in their favour in the earlier litigation and the same was marked as Ex.A1 and based on the said decree passed by the competent civil court, the plaintiffs filed the present suit for recovery of possession. When the plaintiffs filed the suit for recovery of possession based on their title, the defendants cannot successfully resist the same, without pleading adverse possession or any other special status like tenant to protect their possession. The defendants did not plead adverse possession as a defense. In the absence of specific plea of adverse possession, the defendants cannot claim that they perfected title by adverse possession. Both the courts below, by taking into consideration the declaration of title in the earlier litigation and the subsequent suit filed by the respective parties, rightly came to the conclusion that the plaintiffs are entitled to recovery of possession. I do not find any perversity in the findings reached by the court below. Therefore, this court is not inclined to entertain the second appeal as there is no substantial question of law arising for consideration.



10. Accordingly, this second appeal is dismissed, affirming the findings of the courts below. There shall be no order as to costs. Connected miscellaneous petition is closed.

21-04-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MST

To

1. The Subordinate Judge, Ambur.

2. The Principal District Munsif, Ambur.



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S.SOUNTHAR, J.

MST

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