



**SA(MD) No.545 of 2021**

**T.V.THAMILSELVI,J.**

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Challenging the concurrent findings of the Courts below, the defendant has preferred the present Second Appeal.

2. Learned counsel appearing for the appellant submitted that the Courts below failed to appreciate that the defendant has been in continuous possession and enjoyment of the suit property for more than the statutory period and is, therefore, entitled to claim title over the property by way of adverse possession. The Courts below erred in holding that the defendant is not entitled to claim title by adverse possession, particularly when the plaintiff was fully aware that the defendant had been in possession of the suit property for more than the statutory period and had not taken any steps to recover possession from the defendant.

3. Learned counsel further submitted that the parties to the proceedings are close relatives and that, with a view to avoiding stamp duty, only an extent of 44 cents was conveyed in favour of the defendant by the plaintiff. He further contended that the plaintiff was well aware that the defendant had already purchased an extent of 1 acre and 48 cents from the plaintiff's father and has been in continuous possession and enjoyment thereof.



4. This Second Appeal is admitted on the following substantial questions of law:

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*(i) Whether the Courts below are right in holding that the defendant is entitled only to an extent of 44 cents and not the entire extent of 1 acre and 48 cents, particularly when a patta has been issued in favour of the defendant for the entire extent of 1 acre and 48 cents, and more particularly when the plaintiff has not taken any steps before the Revenue Authorities to cancel the said patta?*

*(ii) Whether the Courts below are right in holding that the defendant was only a caretaker and, despite having been in possession of the suit property since 1965, is not entitled to claim title by way of adverse possession?*

5. Post the matter on **07.09.2026**.

6. Call for the records.

**29.07.2026**

**am**



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