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SA(MD). No.628 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 20.04.2026

Delivered on : 05.06.2026

CORAM

**THE HONOURABLE MR. JUSTICE P.B.BALAJI**

**SA(MD). No.628 of 2022  
and  
CMP(MD)No.8923 of 2022**

1. Ponramaraj,
2. Jebamalai,
3. Kasirajan ... Appellants / Appellants / Plaintiffs

Vs.

1. Kanniammal
2. Murugan
3. Amirtham
4. Vasanthi
5. Veerammal  
Panchavarnam (Died)
6. Madasamy
7. Gandhi
8. Veerabathran
9. Valarmathi



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10. Veerammal
11. Murugavalli
12. Thangarajpandian Alias Thangaraja
13. Kumaresan
14. Govindhan
15. Kamatchi
16. Ramasamy

17. The Sub Registrar,  
Sayalkudi Town Sub Registrar Office,  
Sayalkudi, Kadaladi Taluk,  
Ramanathapuram District..

18. The Sub Registrar,,  
Kadaladi Sub Registrar Office,  
Kadaladi Taluk,  
Ramanathapuram District..

19. The State of Tamil Nadu,,  
Rep. Through the District Collector,  
Ramanathapuram District.

... Respondents 1 to 20/Respondents 1 to 20/  
Defendants 1 to 20



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**PRAYER :-** Second Appeal filed under Section 100 of Civil Procedure Code, to allow the Second Appeal and set aside the judgment and decree dated 22.04.2022 made in A.S. No. 13 of 2021 on the file of the Subordinate Court, Mudukulathur, confirming the judgment and decree dated 30.09.2019 made in O.S. No. 96 of 2019 on the file of the District Munsif Court, Kadaladi.

For Appellants : Mr.PT.S.Naraendravan,

For Respondents : Mr.K.R.Laxman,

for Mr.M.Dinesh Hari Sudarsan for R16

: No appearance for R6, 12, 17 to 19

### **JUDGMENT**

The plaintiffs, aggrieved by the concurrent findings rendered by the trial Court as well as the first appellate Court, are the appellants herein.

2. The second appeal was admitted by this Court on 23.03.2023 on the following substantial questions of law:

*(i) Whether the Courts below were right in dismissing the suit by stating that the plaintiffs have not*



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*proved their case that the defendants based on forged and fabricated documents are claiming ownership of the suit schedule property?*

*(ii) Whether the plaintiffs have purchased the suit schedule property from its true owners?*

*(iii) Whether the lower Appellate Court were right in rejecting I.A.No.01 of 2022 filed by the plaintiffs to receive additional documents to substantiate their contentions in the plaint?*

3. I have heard Mr.PT.S.Narendravasan, learned counsel for the appellants and Mr.K.R.Laxman for Mr.M.Dinesh Hari Sudarsan, learned counsel for the contesting 16<sup>th</sup> respondent.

4. For the sake of convenience, the parties are referred to as per their rank before the trial Court.

5. Brief facts that are necessary for deciding the second appeal are as hereunder:

The plaintiffs filed a suit for declaration of the title, recovery of possession and also for declaration of registered document as null and



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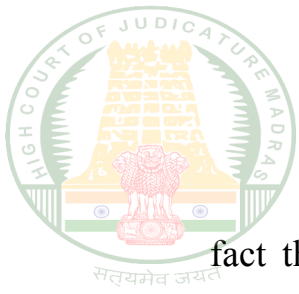
void, besides the relief of mandatory injunction, to remove the encroachment in the suit property.

6. Mr.PT.S.Narendravasan, learned counsel for the appellant would contend that the Courts below have erred in not properly appreciating the evidence of the defendants 1, 2 and 3, which clearly establish contradictions in the versions projected by them, which probablised the case pleaded by the plaintiff, besides also establishing a fraud played by the 13<sup>th</sup> defendant in bringing about the first document. The primordial submission of Mr.PT.S.Narendravasan, is that the correct identity of the property has not been set out and there is also no finding with regard to the same. He would also state that the present owner of the property is not contesting the appeal and only the predecessor in title, viz., 16<sup>th</sup> defendant, is prosecuting the matter. He would therefore state that it is a fit case for remand so that the parties will be given a fair opportunity to lead further evidence and also enable the Court to identify the suit property correctly so that necessary reliefs, if entitled, may thereafter be granted to the plaintiffs.



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7. The learned counsel would further state that the vendors of the defendants, viz., Periyasamy Nadar and Alagarsamy Nadar had not even purchased the suit property from the real owners and they were also not even in a position to obtain patta in their names. He would further state that though 16<sup>th</sup> defendant contended in the written statement that he had obtained patta, no documents were produced at trial. He would further state that the first appellate Court having rightly found that the FMB sketch and subdivisions mentioned therein have not been correctly carried out and the properties have not been identified and subdivided in the FMB sketch, ought not to have been confirmed the erroneous findings of the trial Court. He would further contend that the 17<sup>th</sup> defendant had admitted that the plaintiffs purchased 4.50 acres and that the excess lands were purchased from Villakkal pursuant to an oral partition effected by way of compromise between Kattaiya Thevar and Villakkal. He would further state that the first appellate Court ought to have allowed the I.A No.1 of 2002 for receipt of additional document which clearly established the fact that there was a dispute between Kattaiya Thevar and Villakkal. He would further state that the Village Administrative Officer, who was examined as D.W.3 has conceded to the



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fact that for patta transfer from a Trust to an individual, the Revenue Divisional Officer alone is competent. However, in the instant case, the patta transfer order was not passed by the Revenue Divisional Officer. Relying on Ex.B20-FMB sketch and evidence of D.W.3-Village Administrative Officer, Mr.PT.S.Narendra-vasan, learned counsel would contend that there is no indication in the FMB that there has been a subdivision of the property and it is clearly established that the patta obtained by the defendants 13 and 17 as if the property had been subdivided, was clearly collusive and fraudulent. The learned counsel would state that the suit property has not been identified, the Courts below ought not to have dismissed the suit and denied relief to the plaintiff and he reiterated the request for remanding the matter.

8. Per contra, Mr.K.R.Laxman, learned counsel for the contesting respondent would state that the defendants on their side have established tracing of title rights from 2003 onwards and ultimately, the property having been sold to the 17<sup>th</sup> defendant in and by registered sale deed dated 04.12.2006. The learned counsel would state that the trial Court had upheld Ex.B6-sale deed under which Periyasamy Nadar and



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Alagarsamy Nadar had conveyed the suit property to Thangaraj Pandian, while rejecting Ex.A2sale deed as one being executed by persons without any title. He would further state that in the first appeal, I.A.No.1 of 2022 was also filed to establish the relationship as brother and sister between Kattaiya Thevar and Villakkkal and even if the document was received, it will not in any manner improve the case of the plaintiff. In view of the findings of the trial Court and accepted by the first appellate Court that the suit property was not allotted to Villakkkal, but, only her brother – Kattaiya Thevar @ Subramaniya Thevar. The learned counsel would therefore state that when the Courts below have concurrently found that the plaintiff was not entitled to any relief, this Court cannot interfere with such concurrent findings under Section 100 of the Code of Civil Procedure.

9. I have carefully considered the submissions advanced by the learned counsel for the parties. I have also gone through the pleadings, oral and documentary evidence adduced by the parties as well as the judgment of the trial Court and the first appellate Court.



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10. The plaintiffs claimed under one Villakkkal. According to the plaintiffs, Villakkkal executed Ex.A1 by way of Othi in 1980 in respect of 4.5 Acres and subsequently in and by Ex.A2-sale deed, Villakkkal sold the extent of 4.5 acres to one Pandiya Nadar and patta was issued in patta No.823. It is the claim of the plaintiffs that the defendants, who are entitled to lands on the southern side, conveyed a larger extent of 6.56 Acres, without having right over the same. It is the case of the plaintiffs that the 13<sup>th</sup> defendant is a land grabber and he has fraudulently created documents which have subsequently pertained to the suit property and title also changed hands eversince and ultimately the 17<sup>th</sup> defendant purchased the property under Ex.B6 and he has obtained patta after effecting subdivision.

11. The trial Court on examining Ex.B6 registered sale deed dated 11.07.1997 found that Periyasamy and Alagarsamy had conveyed 4.10 Acres (in Ex.B6 = Ex.A20 sale deed) in favour of the 13<sup>th</sup> defendant Thangaraj Pandian, from whom subsequently properties have changed hands and the middle portion of 4.50 cents finally came to the hands of the 17<sup>th</sup> Defendant. It is the case of the plaintiff that while executing the

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said document in Ex.A2, instead of mentioning 6.56 Acres, by mistake the schedule of the property mentioned in the Othi in favour of Villakkal was mentioned.

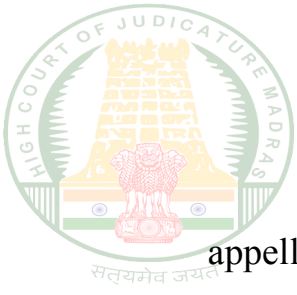
12. However, this contention of the plaintiff had been rejected by the Courts below rightly finding that if such a version is to be believed, then there would not have been a mention that the middle portion is being conveyed. In such circumstances, the Courts below had rightly disbelieved the fanciful story put forward by the plaintiffs that, instead of 6.56 acres, the documents had erroneously mentioned an extent as 4.50 acres, particularly in Ex.A18 and therefore, all sale in excess of 4.50 Acres was not valid in the eye of law, I do not find the concurrent factual findings of the Courts below to be perverse, erroneous, or contrary to the evidence on record, warranting interference in second appeal.

13. On the side of the defendants, they have been able to establish title and the Courts have also rightly appreciated Ex.B6- sale deed and subsequent sale deeds in respect of 4.1 Acres and also found that revenue records have also been duly mutated in the names of the defendants and



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necessary subdivisions have also been effected, which clearly established that the defendants alone were in possession of the suit property. It is a trite and settled position of law that the High Court, while exercising jurisdiction under Section 100 CPC, can entertain a second appeal only when a substantial question of law is involved, and not merely a question of law. While considering a substantial question of law, it must be borne in mind that such a question is distinct from a substantial question of fact. When the Courts below have concurrently assessed the pleadings in the light of the oral and documentary evidence adduced by the parties and found that the plaintiffs were disentitled to any relief as prayed for, this Court will not interfere with such concurrent finding of fact. More over, a right of appeal under Section 100 CPC, is not a matter of right, but, it is a substantive statutory right that needs to be regulated in accordance with the prevailing law. Having already found that the Courts have not committed any error of jurisdiction, have not ignored material evidence or rendered findings based on no evidence, or have rendered incorrect findings or applying law erroneously, I am unable to see any justifiable grounds arising in the present case to interfere with the findings rendered concurrently by the trial Court as well as the first



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appellate Court.

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14. For all the above reasons, I do not find any merit in the second appeal. The substantial questions of law are accordingly answered against the appellants.

15. In fine, this second appeal is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

**05.06.2026**

NCC : Yes / No

Internet : Yes/No

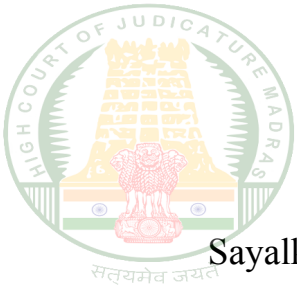
Index : Yes/No

LS

TO

1. The Subordinate Court,  
Mudukulathur.
2. The District Munsif Court,  
Kadaladi.
3. The Sub Registrar,  
Sayalkudi Town Sub Registrar Office,

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Sayalkudi, Kadaladi Taluk,

Ramanathapuram District.

4 The Sub Registrar,,

Kadaladi Sub Registrar Office,

Kadaladi Taluk,

Ramanathapuram District.

5. The District Collector,

Ramanathapuram District.



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**P.B.BALAJI,J.**

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**Pre-delivery Judgment made in  
SA(MD) No.628 of 2022**

**05.06.2026**