



SA(MD). No.641 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 20/07/2026

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THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

SA(MD). No.641 of 2025

Sankaralingam,

... Appellant

Vs.

Kanagaraj,
S/o.Palanichamy Gounder,
Navakkani Village,
Mandavadi Post,
Ottanchathiram Taluk,
Dindigul District.

... Respondent

PRAYER :- Second Appeal filed under Section 100 of Civil Procedure Code, to set aside the Judgment and Decree dated 07.08.2018 passed in A.S. NO. 83 of 2017 on the file of the Additional District Court (Fast Track Court), Palani, Dindigul District reversing the Judgment and Decree dated 24.09.2014 passed in O.S. No. 130 of 2011 on the file of the District Munsif Court, Ottanchathiram, Dindigul District by allowing this Second Appeal.

For Appellant : Mr. S. Sadeskumar,

For Respondent : Mr.Sivathilakar,



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ORDER

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Challenging the Judgment and Decree dated 07.08.2018 passed in A.S. NO. 83 of 2017 on the file of the Additional District Court (Fast Track Court), Palani, Dindigul District reversing the Judgment and Decree dated 24.09.2014 passed in O.S. No. 130 of 2011 on the file of the District Munsif Court, Ottanchathiram, Dindigul District, the plaintiff preferred this appeal.

2.The learned counsel for the appellant submits that the First Appellate Court ought to have held that the sale deed dated 21.08.2006 does not reflect the true agreement between the parties and is liable to be rectified by substituting the extent of the property from 48 cents to 50 cents, which was the actual extent agreed to be sold by the defendant to the plaintiff.

3. The learned counsel further submits that the First Appellate Court ought to have concluded that, owing to the fraud played by the defendant, the sale deed erroneously mentions the extent of the property as 48 cents instead of 50 cents, which was the extent agreed upon by the

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parties. Consequently, the plaintiff has been deprived of the benefit of the full extent of the property intended to be conveyed.

4. The learned counsel further contends that the First Appellate Court ought to have held that the plaintiff is entitled to the relief of rectification of the sale deed under Section 26 of the Specific Relief Act, 1963, since the written instrument does not reflect the true intention of the parties on account of fraud or mutual mistake. The Court below, however, has completely misread, misconstrued, and misinterpreted the scope and ambit of Section 26 of the Specific Relief Act and has, therefore, erroneously concluded that the sale deed in question is not liable to be rectified. The said finding is patently unsustainable in law and prays to satisfy the findings by admitting the appeal.

5. Therefore, the grounds raised by the appellant is justifiable one.

Therefore, the appeal is admitted on following questions of law:-

“(I) Whether the First Appellate Court has rightly applied the legal Principles contained in Section 26 of the Specific Relief Act to the facts and circumstances of the present case?”



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(II) Whether the failure of the First Appellate Court to advert to Section 3 of the Evidence Act regarding the definition of the word "proved" and failure to apply the same to the present case has vitiated and the hearing of the First Appeal to detriment of the Plaintiff?"

6. Issue notice to the respondents returnable by 10.09.2026.

Private notice is also permitted.

7. Registry is directed to call for records from the concerned Court.

Post the matter on 10.09.2026.

20.07.2026

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TO

1.The Additional District Court (Fast Track Court),
Palani, Dindigul District

2.The District Munsif Court,
Ottanchathiram,
Dindigul District

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T.V.THAMILSELVI,J

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