

A.S(MD)Nos.32 and 33 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 23.03.2026

Pronounced on : 30.06.2026

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CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

A.S(MD)Nos.32 and 33 of 2025

and

C.M.P(MD)No.1629 of 2025

Vijayakumar,
S/o.Duraimanickam,
No.1183, West Street,
Thuraiyundarkottai Village,
Orathanadu Taluk,
Thanjavur District.

... Appellant/1st Defendant
in both Appeals

Vs.

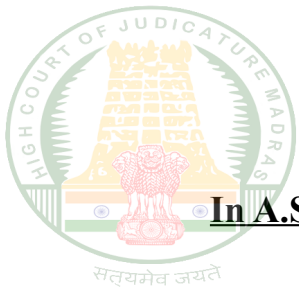
1.T.Baskaran,
S/o.Thulasiayya Madhaiyundar,
No.1182, West Street,
Thuraiyundarkottai Village,
Orathanadu Taluk,
Thanjavur District.

...1st Respondent/Plaintiff
in both Appeals

2.C.Ramamoorthy,
S/o.Chinaiah,
No.1184, West Street,
Thuraiyundarkottai Village,
Orathanadu Taluk,
Thanjavur District.

...2nd Respondent/2nd Defendant
in both Appeals

COMMON PRAYER: These Appeal Suits are filed under Section 96 of the Civil Procedure Code, to set aside the judgment and decree of the III Additional District Court, Thanjavur at Pattukottai in O.S.No.244 of 2023, dated 09.01.2025 and counterclaim in O.S.No.244 of 2023.



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In A.S(MD)No.32 of 2025:

For Appellant	: Mr.P.Vadivel
For R1	: Mr.A.Senthilkumar
For R2	: No Appearance

In A.S(MD)No.33 of 2025:

For Appellant	: Mr.P.Vadivel
For R1 & R2	: No Appearance

COMMON JUDGMENT

These Appeal Suits are directed against the judgment and decree, dated 09.01.2025 passed in O.S.No.244 of 2023 and counterclaim in O.S.No.244 of 2023 on the file of the III Additional District Court, Thanjavur @ Pattukkottai.

2.The appellant is the 1st defendant in O.S.No.244 of 2023 on the file of the III Additional District Court, Thanjavur @ Pattukkottai. The 1st respondent is the plaintiff and the 2nd respondent is the 2nd defendant in that suit. The 1st respondent/plaintiff has filed the suit for a declaration that the 1st respondent/plaintiff, his brothers and sisters are absolute owners of the suit property and for a permanent injunction against the defendants. The appellant/1st defendant and 2nd respondent/2nd defendant have filed a written statement/counterclaim that the 1st defendant has an absolute legal right,



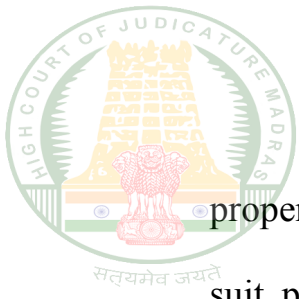
title, and possession over the suit property and for a permanent injunction against the plaintiff and his men.

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

4.The brief facts are as below:

(a) The case of the plaintiff (1st respondent herein):-

The suit properties belonged to one Thulasi Madhaiyundar. He adopted one Natesan Madhaiyundar, whose biological father was Veerappan Madhaiyundar. On the death of Thulasi Madhaiyundar, the said Natesan Madhaiyundar inherited the suit properties as an adopted son and enjoyed the same till his death. Natesan Madhaiyundar has one son, Thulasi Ayya Madhaiyundar and two daughters, late. Manonmani and Deivasigamani. The children of Natesan Madhaiyundar orally partitioned their family properties, in which the movables were allotted to daughters and the immovable properties were allotted to Thulasi Ayya Madhaiyundar. The said Thulasi Ayya Madhaiyundar has three sons and two daughters. The plaintiff is one of his sons. Thulasi Ayya Madhaiyundar died on 26.09.2021. After his death, the plaintiff, his two brothers & his sisters have been in possession and enjoyment of the suit



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properties. The defendants have no manner of right or interest over the suit properties. The defendants managed to create false documents to claim rights over the suit properties. They created a document, dated 11.02.2022, pertaining to the suit property. On coming to know this, the plaintiff objected to it and sent a legal notice, dated 08.08.2023. The 1st defendant sent a reply notice dated 12.08.2023, denying the plaintiff's title to the suit properties. Hence, the plaintiff has filed the present suit for a declaration that the plaintiff and his brothers & sisters are the absolute owners of the suit property and for a permanent injunction.

(b) The case of the 1st defendant (appellant herein):-

The plaintiff has made false averments by suppressing real facts. The suit properties belonged to Duraimanickam Mathaiyundar and Chinnaiah Madhaiyundar, who jointly enjoyed them. They jointly mortgaged the suit properties and other properties in favour of one Meenachi Ammal on 28.10.1957 under registered document No.1705/1957 and discharged the same on 08.11.1971. The plaintiff well knew about the said mortgage and concealed the said fact in the plaint. The said Duraimanickam Madhaiyundar and Chinnaiah Madhaiyundar partitioned the suit properties and other properties by way of a registered



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partition deed in document No.150/1974, dated 07.12.1974.

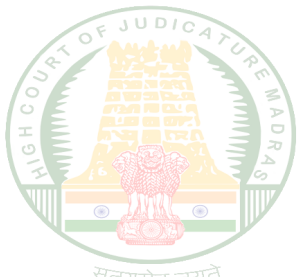
In that partition, the suit properties, i.e., 3.38 acres, were allotted to Duraimanickam Madhaiyundar and 2 acres were allotted to Chinnaiah Madhaiyundar. The Revenue records were also changed. These facts are also well known to the plaintiff and his forefathers. The 1st defendant is the son of Duraimanickam Madhaiyundar. The said Duraimanickam Madhaiyundar, his daughter and the 1st defendant, entered into a registered partition deed under document No.367/1976, dated 15.01.1976. As per that partition, the suit property measuring 3.38 acres was allotted to the 1st defendant. On 16.01.1976, the said Chinnaiah Mathaiyundar and his son Ramamoorthy @ Subramanian and daughter entered into a partition under document No.368/1976, in which the suit property, 2 acres, was allotted to the 2nd defendant. Then, the 2nd defendant sold his property, 2 acres, in favour of the 1st defendant on 11.02.2022. So, the 1st defendant is the absolute owner of the suit properties. The 2nd defendant is in no way connected with the suit property. The plaintiff is the adjacent owner of the suit properties and is cultivating the lands. For irrigation purposes, the plaintiff requested the 1st defendant to allow him to lay a pipeline through the suit properties, and the same was granted by the 1st defendant as the plaintiff is a close relative. The 1st defendant has renal failure and is under treatment.



As there was a boundary issue between the 1st defendant and the plaintiff, upon compromise, the measurement of the land was agreed to be done by a revenue official. With the intention to drag the same, the plaintiff has purposely laid the present vexatious suit after issuing legal notice. The plaintiff has neither title nor possessory right over the suit properties. The plaintiff has not clearly explained under which manner he derived title in his legal notice, as well as in the suit averments. Hence, the 1st defendant made a counterclaim for a permanent injunction against the plaintiff and that the suit is to be dismissed.

(c) Plaintiff's Reply Statement:-

In the reply statement, the plaintiff stated that the irrigation pipeline through the suit property is sufficient to prove his possession and enjoyment of the suit property. It is admitted by the defendant that Natesan Madhaiyundar was the adopted son of Thulasi Madhaiyundar. The suit properties originally belonged to Thulasi Madhaiyundar. After his death, the adopted son, Natesan Madhaiyundar, inherited the same. After his lifetime, his legal heirs inherited the suit properties. The revenue records have also been transferred in their names.



5. The trial Court framed the following issues upon the pleadings of both parties.

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(1)Whether it is correct to say by the plaintiff that the suit property is in absolute possession and enjoyment of the plaintiff along with his cosharers?

(2)Whether the averments which are stated in the counterclaim are an acceptable one?

(3)Whether the mortgage deed dated 28.10.1957 the partition deeds dated 07.12.1974, 15.01.1976 and sale deed dated 11.02.2022 binds upon the plaintiff?

(4)Whether the 2nd defendant is an unnecessary party to the suit?

(5)Whether the defendants are having absolute title and enjoyment over the plaint schedule property?

(6)Whether the plaintiff has a cause of action?

(7) Is it admissible the counter-claim is filed by the defendants?

(8) Whether the plaintiff is entitled to get the relief of a declaration and permanent injunction?

(9)Whether the defendants are entitled to get the relief of a permanent injunction?

(10)And what other relief the plaintiff is entitled?



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(11) And what other relief the defendants are entitled to?

6.Before the trial Court, the plaintiff examined himself as P.W.1 and examined one Vijayakumar as P.W.2. On the plaintiff's side, Ex.A.1 to Ex.A.12 were marked. The defendants examined the 1st defendant as D.W.1 and marked Ex.B.1 to Ex.B.21.

7.After hearing arguments of both sides and on appreciation of evidence by either party, the trial Court has concluded that the plaintiff has proved his case and the 1st defendant has not proved his counterclaim and hence, decreed the suit in favour of the plaintiff and dismissed the counterclaim by its judgment and decree, dated 09.01.2025.

8.The judgment and decree of the trial Court passed in the suit as well as counterclaim are under challenge by way of these appeals.

9.The points for consideration in these appeals are:

- 1)Whether the plaintiff has proved his title over the suit properties?*
- 2) Whether the 1st defendant has proved his*



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title over the suit properties?

3) Whether the trial Court has erred in holding Ex.A.11 permit is proof of title to the father of the plaintiff?

4) Whether these appeals are to be allowed or not?

10. Point Nos.1 to 4:

The learned counsel for the appellant/1st defendant has submitted that the plaintiff has pleaded that the suit property belonged to his father, Thulasi Ayya and produced Ex.A.1 - Patta Passbook, Ex.A.2 & 3 - Adangal extract and Ex.A.11 - Irrigation Permit. Those documents are admittedly revenue records. Except for those documents, the plaintiff has not produced any piece of document to show his title. Even in Ex.A.1 - Patta, there is no mentioning about the 1st item of suit property, viz., R.S.No.291/GB/1A1 - 1.27.5 hectares and the 2nd item R.S.No.291/GB/4 - 0.90.0 ares, was included at the very end of the property list. So, Ex.A.1 itself is fabricated and doubtful and hence, Ex.A.1 cannot be relied upon. Exs.A2 & A3 are follow up of Ex.A.1. It is settled law that revenue records will not confer any title. Ex.A.1 to Ex.A.3, being revenue records, would not confer any title, but the trial Court erred in considering Ex.A.1 to Ex.A.3 in favour of the



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plaintiff. The learned counsel has placed reliance on the decision of the Hon'ble Supreme Court reported in **2019 (3) SCC 191** in the case of **Bhima Bai Mahadeo Kambekar through LR /v/ Arthur Import and Export Company and Ors.**, in which it is held in paragraph Nos.6 and 7 as follows:

“6.This Court has consistently held that mutation of a land in the revenue records does not create or extinguish the title over such land nor has it any presumptive value on the title. It only enables the person in whose favour mutation is ordered to pay the land revenue in question. (See.Sawami.v. Inder Kaur; Balwant Singh v. Daulant Singh and Narasamma v. State of Karnataka).

7. The High Court while dismissing the writ petition placed reliance on the aforementioned law laid down by this Court and we find no good ground to differ with the reasoning and the conclusion arrived at by the High Court. It is just and proper calling for no interference.”

11.The learned counsel for the appellant/1st defendant further put forth arguments that the trial Court has solely relied on Ex.A.11, which is said to be an irrigation permit issued to Thulasi, dated 23.12.1934.



Ex.A.11 is only a colour Xerox, and it was marked on objection.

The plaintiff has not produced the original of Ex.A.11. So, Ex.A.11, being a photocopy, has no evidentiary value. This document was produced without any pleading in the plaint. The plaintiff has not pleaded about the said document in his plaint nor in his reply statement. The plaintiff must establish his title or legal rights to lead secondary evidence. Hence, in the absence of pleading and without complying with Section 65 of the Indian Evidence Act, Ex.A.11 cannot be looked into, whereas the trial Court has committed a grave mistake in holding that Ex.A.11 proved the title of the plaintiff without examining the probative value and question of admissibility.

12.The learned counsel has relied on the following rulings:

(1) 2011 (4) SCC 240 in the case of H.Siddiqui (D) by LR /v/

A.Ramalingam, wherein it is held in paragraph No.12 as follows:

"12.Provisions of [Section 65](#) of the 1872 Act provide for permitting the parties to adduce secondary evidence. However, such a course is subject to a large number of limitations. In a case where original documents are not produced at any time, nor, any factual foundation been laid for giving secondary evidence, it is not permissible for the court to allow a party to adduce



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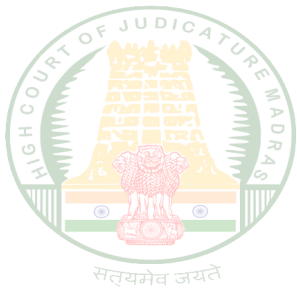
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secondary evidence. Thus, secondary evidence relating to the contents of a document is inadmissible, until the non production of the original is accounted for, so as to bring it within one or other of the cases provided for in the section. The secondary evidence must be authenticated by foundational evidence that the alleged copy is in fact a true copy of the original. Mere admission of a document in evidence does not amount to its proof. Therefore, the documentary evidence is required to be proved in accordance with law. The court has an obligation to decide the question of admissibility of a document in secondary evidence before making endorsement thereon. (Vide: The Roman Catholic Mission & Anr. v. The State of Madras & Anr., State of Rajasthan & Ors. v. Khemraj & Ors., Life Insurance Corporation of India & Anr. v. Ram Pal Singh Bisen, and [M.Chandra v. M.Thangamuthu & Anr.](#)

(2) 2007 (5) SCC 730 in the case of J.Yashoda /v/ K.Shobha

Rani, it is held in paragraph Nos.7 to 9 as follows:

“7.Secondary evidence, as a general rule is admissible only in the absence of primary evidence. If the original itself is found to be inadmissible through failure of the party, who



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files it to prove it to be valid, the same party is not entitled to introduce secondary evidence of its contents.

8.Essentially, secondary evidence is an evidence which may be given in the absence of that better evidence which law requires to be given first, when a proper explanation of its absence is given. The definition in Section 63 is exhaustive as the section declares that secondary evidence "means and includes" and then follow the five kinds of secondary evidence.

9.The rule which is the most universal, namely, that the best evidence the nature of the case will admit shall be produced, decides this objection. That rule only means that, so long as the higher or superior evidence is within your possession or may be reached by you, you shall give no inferior proof in relation to it. Section 65 deals with the proof of the contents of the documents tendered in evidence. In order to enable a party to produce secondary evidence it is necessary for the party to prove existence and execution of the original document. Under Section 64, documents are to be provided by primary evidence. Section 65, however permits secondary evidence to be given of the existence, condition or contents of documents under the circumstances mentioned. The conditions laid down in the said Section must be fulfilled before



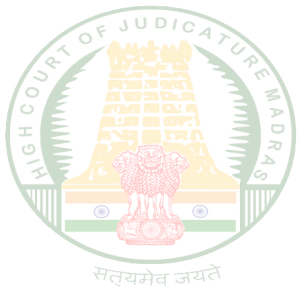
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secondary evidence can be admitted. Secondary evidence of the contents of a document cannot be admitted without non-production of the original being first accounted for in such a manner as to bring it within one or other of the cases provided for in the Section. In Ashok Dulichand v. Madahavlal Dube, it was inter alia held as follows: (SCC pp.666-67, para 7).

"7.After hearing the learned counsel for the parties, we are of the opinion that the order of the High Court in this respect calls for no interference. According to clause (a) of Section 65 of Indian Evidence Act, Secondary evidence may be given of the existence, condition or contents of a document when the original is shown or appears to be in the possession or power of the person against whom the document is sought to be proved or of any person out of reach of, or not subject to, the process of the Court, or of any person legally bound to produce it, and when, after the notice mentioned in Section 66, such person does not produce it. Clauses (b) to (g) of Section 65 specify some other contingencies wherein secondary evidence relating to a document may be given, but we are not concerned with those clauses as it is the common case of the parties that the present case is not covered by those clauses. In order to bring his case within the



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purview of clause (a) of Section 65, the appellant filed applications on July 4, 1973, before respondent No. 1 was examined as a witness, praying that the said respondent be ordered to produce the original manuscript of which, according to the appellant, he had filed photostat copy. Prayer was also made by the appellant that in case respondent no.1 denied that the said manuscript had been written by him, the photostat copy might be got examined from a handwriting expert. The appellant also filed affidavit in support of his applications. It was however, nowhere stated in the affidavit that the original document of which the photostat copy had been filed by the appellant was in the possession of Respondent No.1. There was also no other material on the record to indicate the original document was in the possession of respondent no.1. The appellant further failed to explain as to what were the circumstances under which the photostat copy was prepared and who was in possession of the original document at the time its photograph was taken. Respondent No.1 in his affidavit denied being in possession of or having anything to do with such a document. The photostat copy appeared to the High Court to be not above suspicion. In view of all the circumstances, the High Court came to the



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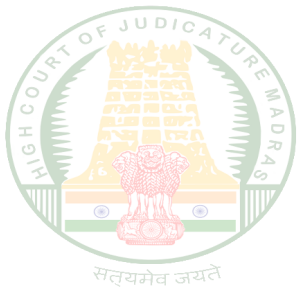
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conclusion that no foundation had been laid by the appellant for leading secondary evidence in the shape of the photostat copy. We find no infirmity in the above order of the High Court as might justify interference by this Court."

(3) 2026 INSC 134 (Supreme Court) in the case of Tharammel Peethambaram and Anr. /v/ T.Ushakrishnan and Anr., in which it is held in paragraph Nos.20.1 to 20.4 as follows:

"20.1 The fundamental principle of the Indian Evidence Act is that facts have to be established by primary evidence. Section 64 mandates that documents must be proved by primary evidence, which is considered the "best evidence". Primary evidence is the rule, while secondary evidence is an exception admissible only in the absence of primary evidence. A party is generally required to produce the best evidence available; so long as the superior evidence (the original) is within a party's possession or reach, they cannot introduce inferior proof (secondary evidence).

20.2 Before secondary evidence can be admitted, the party relying on it must lay a factual foundation. This involves two steps: First, the party must prove that the original document actually existed and was executed. Secondly, the party must establish valid reasons as to why the



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original cannot be furnished.

20.3 Secondary evidence is inadmissible until the non-production of the original is accounted for in a manner that brings the case within the specific exceptions provided in Section 65. If the original itself is found to be inadmissible through failure of the party who files it to prove it to be valid, the same party is not entitled to introduce secondary evidence of its contents.

20.4 Section 65 of the Evidence Act is exhaustive and states the specific circumstances under which secondary evidence is permissible. To introduce secondary evidence, a party must satisfy the conditions of one of the clauses (a) through (g) of Section 65.”

(4) (2016) 16 Supreme Court Cases 483 in the case of Rakesh Mohindra /v/ Anita Beri and Ors., it is held in paragraph Nos.20 to 24 as follows:

“20. It is well settled that if a party wishes to lead secondary evidence, the Court is obliged to examine the probative value of the document produced in the Court or their contents and decide the question of admissibility of a document in secondary evidence. At the same time, the party has to lay down the factual foundation to establish the right to give



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secondary evidence where the original document cannot be produced. It is equally well settled that neither mere admission of a document in evidence amounts to its proof nor mere making of an exhibit of a document dispense with its proof, which is otherwise required to be done in accordance with law.

13.It is further vehemently argued by the counsel for the appellant that the plaintiff has filed the suit for declaration of his title; if so, the plaintiff can succeed only by proving his case and not by relying on the weakness of the defendants' case. The plaintiff must prove his title from the origin, but the plaintiff has not produced any document to show his title over the suit property. Whereas the 1st defendant has produced title documents Ex.B.1 to Ex.B.4 tracing title over the suit property, which belonged to Duraimanickam Madhaiyundar and Chinnaiah Madhaiyundar by producing Ex.B.1, a registered mortgage deed. The family members of the said Duraimanickam Madhaiyundar and Chinnaiah Madhaiyundar partitioned the suit properties and other properties through Ex.B.2 to Ex.B.4 registered partition deeds showing that the 1st item was allotted to Duraimanickam Madhaiyundar and the 2nd item was allotted to Chinnaiah Madhaiyundar. Thereafter, the 1st defendant and his sisters, who are the children of Duraimanickam



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Madhaiyundar, partitioned the properties and allotted the 1st item of the suit property to the 1st defendant. The 2nd defendant, who is the son of Chinnaiah Madhaiyundar, sold the 2nd item to the 1st defendant under Ex.B9, a registered sale deed dated 11.02.2022. The father of the plaintiff, namely Thulasi Ayyah, signed as a witness in the documents Ex.B.1 to Ex.B.4, and the same was also admitted by the plaintiff. Based on these documents, the revenue records, i.e., patta, chitta, etc., were mutated in the name of the 1st defendant, and the 1st defendant produced Ex.B.5 to B.8 and Ex.B.10 to Ex.B.12. But, the trial Court has not considered the title documents produced by the 1st defendant, simply stating that the 1st defendant has not taken any steps to prove possession by examining the revenue authorities and the origin 'Karamal' was not produced by the 1st defendant.

14.The learned counsel for the appellant further argued that Ex.B.1 to Ex.B.4 are registered documents which are admittedly more than 70 and 50 years old. While so, the mere non-production of any previous document referred to in Ex.B.1 and Ex.B.2 cannot belittle his defense. The plaintiff must prove his title and he cannot take advantage of the weakness of defense. The plaintiff admitted that his father signed as a witness in Ex.B.1 to Ex.B.4, so his father could not have any title over



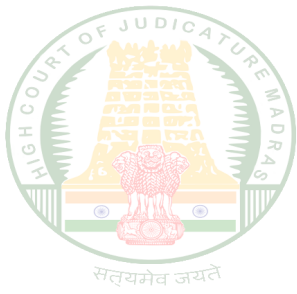
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the properties. The plaintiff filed only the revenue document Ex.A.1 patta passbook and Ex.A.11 photocopy of permit. It is the specific case of the 1st defendant that the plaintiff is the adjacent owner of the suit property and he was permitted to pass irrigation water through a pipeline laid along the suit property. The 1st defendant strongly objected to Ex.A.11, a coloured photocopy, even then, the plaintiff did not produce the original of the same. The trial Court erred in coming to the conclusion that the plaintiff proved title through Ex.A.11 coloured photocopy and Ex.A.1 patta passbook, which are not sufficient to hold that the plaintiff proved his title over the suit property. Therefore, the finding of the trial Court has to be set aside and the appeals may be allowed.

15.In support of his contention, the learned counsel relied on the following rulings:

(1) (2014) 2 Supreme Court Cases (Civ) 66 in the case of **Union of India and Others /v/ Vasavi Cooperative Housing Society Limited and Ors.**, it is held in paragraph Nos.19 to 22 as follows:

“19. The legal position, therefore, is clear that the plaintiff in a suit for declaration of title and possession could succeed only on the strength of its own title and that could be done only by adducing sufficient evidence to



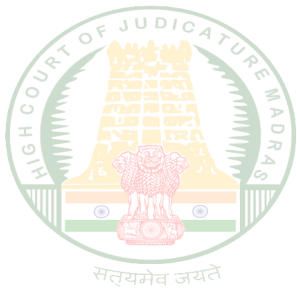
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discharge the onus on it, irrespective of the question whether the defendants have proved their case or not. We are of the view that even if the title set up by the defendants is found against, in the absence of establishment of the plaintiff's own title, the plaintiff must be non-suited.

20. We notice that the trial court as well as the High Court rather than examining that question in depth, as to whether the plaintiffs have succeeded in establishing their title on the scheduled suit land, went on to examine in depth the weakness of the defendants' title. The defendants relied on the entries in the GLR and their possession or repossession over the suit land to non-suit the plaintiffs. The court went on to examine the correctness and evidentiary value of the entries in the GLR in the context of the history and scope of the Cantonment Act, 1924, the Cantonment Land Administration Rules, 1925 and tried to establish that no reliance could be placed on the GLR. The question is not whether the GLR could be accepted or not, the question is, whether the plaintiff could prove its title over the suit property in question. The entries in the GLR by themselves may not constitute title, but



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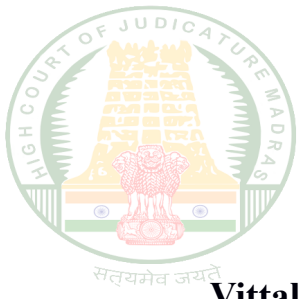


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the question is whether entries made in Ext.A-3 would confer title or not on the plaintiff.

21. This Court in several judgments has held that the revenue records do not confer title. In Corporation of the City of Bangalore v. M.Papaiah and another held that 5. "it is firmly established that revenue records are not documents of title, and the question of interpretation of document not being a document of title is not a question of law.". In Guru Amarjit Singh v. Rattan Chand and others this Court has held that 2. "that the entries in Jamabandi are not proof of title". In State of Himachal Pradesh v. Keshav Ram this Court held that 5. "an entry in the revenue papers, by no stretch of imagination can form the basis for declaration of title in favour of the plaintiff."

22. The Plaintiff has also maintained the stand that their predecessor-in-interest was the Pattedar of the suit land. In a given case, the conferment of patta as such does not confer title. Reference may be made to the judgments of this Court in Syndicate Bank vs. APIIC Ltd. and Vatticherukuru Village Panchayat v. Nori Venkatarama Deekshithulu.

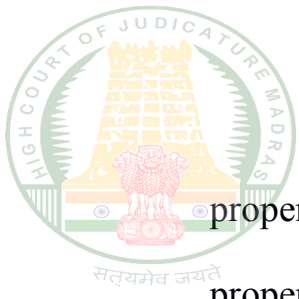


(2) 2023 Live Law (SC) 999 in the case of P.Kishore Kumar /v/

Vittal K.Patkar, it is held in paragraph No.22 as follows:

“22.Contention advanced on behalf of the plaintiff that through the record of rights the plaintiff has established his title by a preponderance of probabilities is not sustainable. As noted above, the plaintiff failed to produce a single document of title in respect of the suit property. In a dispute with respect to determination of title, merely pointing out the lacunae in the defendant’s title would not suffice. Having instituted the suit for declaration, the burden of proof rested on the shoulders of the plaintiff to reasonably establish the probability of better title, which the plaintiff in the presence case, has manifestly failed to do.”

16.Per contra, the learned counsel for the plaintiff/1st respondent has argued that the suit property originally belonged to Thulasi Madhaiyundar, who adopted one Natesan, who was none other than the eldest brother of Duraimanickam Madhaiyundar and Chinnaiah Madhaiyundar. After the death of Thulasi Madhaiyundar, his adopted son Natesan, inherited his property. Natesan died in 1944 and his son Thulasi Ayya Madhaiyundar and two sisters orally partitioned their family



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properties. The movables were allotted to sisters and the immovable property was allotted to Thulasi Ayya Madhaiyundar, who died on 26.09.2021. His children, namely the plaintiff and his brother & sisters, have been in possession and enjoyment of the suit property. The plaintiff produced Ex.A.11 permit for irrigation with Cauvery water issued to the said Thulasi. So, without a title over the suit property, the permit could not be issued. The 1st defendant has also admitted in his written statement that the plaintiff erected a pipeline through the suit property for passing irrigation water. So, the possession of the suit property by the plaintiff is clearly proved. Further, the Patta Passbook - Ex.A.1 was also issued to the plaintiff. Ex.A.11 was issued in the year 1934. The 1st defendant admitted in his evidence that he has not irrigated the land. Though the 1st defendant traced title through Ex.B.1 to Ex.B.4. Ex.B.1 is a mortgage deed transacted between brothers and Ex.B.2 to Ex.B.4 are also executed between themselves. Ex.B.2 was executed based on the 'Karamal sheet'. The 1st defendant has not produced the said Karamal Sheet and also, there is no explanation for the non-production of the same. In Ex.A.1, the entire property has been mentioned, and the R.S.No.291 GB/1A1 has been mentioned. The 2nd item, R.S.No.291 GB/4, was also mentioned. Merely, it was lastly mentioned that the same cannot be objected. Except for D.W.1, no other



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witness was examined on the defendants' side. So, the trial Court correctly held that the plaintiff had proved his title and possession over the suit property and rightly decreed the suit and dismissed the counterclaim. Therefore, there will be no need for interference with the judgment and decree of the trial Court, the appeals may be dismissed.

17.I have carefully considered the arguments of both sides and the rulings relied on by the appellant's/1st defendant side, along with material records of the case. The suit property is measuring 5 acres 38 cents, consisting of two items, viz., 3 acres 38 cents in R.S.No. 291GB/1A1 and 2 acres in R.S.No.291GB/4. It is admitted that the plaintiff has adjacent land to the suit property. It is also an admitted fact that the plaintiff has not produced any title documents relating to the suit property except Ex.A.1 - Patta Passbook and Ex.A.11 - Permit for irrigation of water. It is the case of the plaintiff that one Natesan, biological paternal uncle of the 1st defendant, was adopted by one Thulasi Madhaiyundar; that the suit property belonged to him and after his death, the adopted son Natesan inherited the property and that after the death of Natesan his son Thulasi Ayya Madhaiyundar and his daughters partitioned the properties, whereby the suit property was allotted to Thulasi Ayya Madhaiyundar. It is the further case of the



plaintiff that Thulasi Ayya Madhaiyundar died on 26.09.2021 and, after that the plaintiff and his brothers & sister are enjoying the suit properties.

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It is a well-settled position of law that the revenue records will not confer any title on the person in whose name the same was issued. The Hon'ble Supreme Court has repeatedly held the same in a catena of its judgments. The 1st defendant's side ruling reported in **2023 Live Law (SC) 999** clearly held that the revenue records are not documents of title and mutation entries in revenue records do not confer any right, title, or interest in favour of the person, and the mutation entry in the revenue records is only for the fiscal purpose. Hence, this Court is of the considered view that Ex.A.1 will not confer any title in favour of the plaintiff.

18.Next, the plaintiff relies on Ex.A.11 for their title over the suit property. A perusal of the same, it is clear that Ex.A.11 is a permit for irrigation with Cauvery water, issued by the Special Executive Engineer, Cauvery Mettur Project. A further perusal of the same would show that the major portion of the said permit chit has typographical letters, only the name of the permittee and the serial number are shown as written. The 1st defendant objected that Ex.A.11 is only a colour photocopy and the plaintiff has not produced the original of the same. The plaintiff has



not explained the non-production of the original of Ex.A.11.

When a document is alleged to be fabricated or forged one, it is the duty of the litigant who produces the document must prove that the document is genuine one by adducing acceptable evidence. The plaintiff has not examined any independent witness to prove the Ex.A.11. Moreover, Ex.A.11 was issued in 1934, the plaintiff's grand father Natesan died in 1944, if so the plaintiff has not explained whether Ex.A.11 was issued to the adopted father Natesan i.e., whether Thulasi Madhaiyundar's adopted father was Natesan or if it was issued to Thulasi Ayya Madhaiyundar father of plaintiff, especially when the plaintiff pleaded that it was issued to Thulasi Ayya Madhaiyundar. So, an adverse presumption can be led against the plaintiff. Moreover, as per Section 65 of the Indian Evidence Act, only secondary evidence can be lead, however, the plaintiff must prove his title as per Section 64 of the Indian Evidence Act.

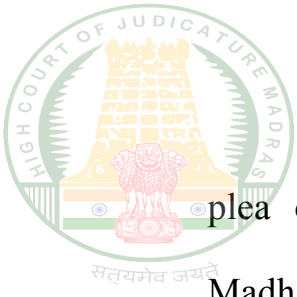
19.In this case, the plaintiff has not produced any piece of document to show his title or the original of Ex.A.11. Therefore, as rightly held by the Hon'ble Supreme Court in Siddiqui case (as above), secondary evidence relating to the contents of a document is inadmissible until the non-production of the original is accounted for, to



bring it within one or other of the cases provided for in the section.

The rulings relied on by the 1st defendant clearly held that the plaintiff, who seeks a declaration of title, has the burden of proof, which lies on the shoulder of the plaintiff and he must prove his better title by producing admissible title documents and the plaintiff cannot take advantage of the weakness of defense. Ex.A.11 is only permission for passing water and it could not be taken as a conveyance of title or proof of being the title holder of the said property. It is the definite case of the 1st defendant that the permission was granted to the plaintiff to take water through the pipeline installed through the suit property. This was not specifically denied by the plaintiff, much less disproved the same. So, Ex.A.1 - Patta Passbook and Ex.A.11 would not suffice to prove title and possession over the suit property by the plaintiff. The trial Court has erred in coming to the conclusion that the plaintiff proved title over the suit property based on Ex.A.1 and Ex.A.11 revenue records, which are inadmissible documents to prove title as per settled propositions of the Hon'ble Apex Court and this Court.

20.The 1st defendant traced title over the suit property by producing Ex.B.1 to Ex.B.4, which are registered mortgage deed and partition deed. Though these are executed among the brothers, it is the



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plea of the 1st defendant that the plaintiff's father, Thulasi Ayya Madhaiyundar, has signed as a witness in those documents. This was not denied by the plaintiff. The plaintiff as P.W.1 has also admitted the signature of his father as a witness in those documents. So, P.W.1 cannot go back against his admission. Ex.B.1 to Ex.B.4 are admittedly registered 70 and 50 years old documents. In case the plaintiff's father had any right over the properties, he would not sign as a witness in Ex.B1 to Ex.B4. The plaintiff has also not taken any steps to produce the same nor examined anyone to explain the same. The 1st defendant claims that he has been irrigating the suit property with several coconut trees for more than 40 years. The plaintiff has not disputed the same. So, the trial Court erred in rejecting the defence merely holding that the alleged Karamal sheet was not produced by the 1st defendant, whereas the trial court acted on inadmissible evidence of revenue records produced by the plaintiff and thus, the trial Court has committed a grave error in decreeing the suit by placing the revenue records on a higher probative pedestal.

21. There is no clear explanation for the Karamal sheet, nor the trial Court has made an attempt to clarify the same. It is learnt that it is common practice among family members in certain areas of Tamil Nadu



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to write down the description of their family properties by equal shares in a separate sheet during partition of their family properties in their presence and in the presence of elders/mediators and each family member is asked to pick up a sheet of their choice by way of lot and it is called 'Karamal Sheet'. This is mentioned in Ex.B.2 partition deed. Admittedly, there were a large number of properties available for partition while perusing the Ex.B.2 to Ex.B.4 - Partition deeds, which are registered documents. In those documents, the plaintiff's father stood as a witness. In case he had any right or title over those properties, he could not stand as witness, definitely, he would have agitated the same. But, there is no material in this aspect on the plaintiff's side. When Ex.B.2 to Ex.B.4 are registered as more than 50 years old documents, the contents of the same can be presumed authenticated and genuine one.

22.Moreover, the plaintiff admitted that his father signed as a witness in those documents. From Ex.B.2 to Ex.B.4, it is clear that the suit property measuring 3 acres 38 cents was allotted to the Duraimanickam Madhaiyundar and 2 acres were allotted to Chinnaiah Madhaiyundar. The 1st defendant is the son of Duraimanickam Madhaiyundar and the 2nd defendant is the son of Chinnaiah



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Madhaiyundar and this fact is not disputed by the plaintiff. On the demise of those two persons, the said 3 acres 38 cents derived by the 1st defendant and the 2nd defendant, who derived the said 2 acre sold out to the 1st defendant by way of Ex.B9 sale deed. This is also not disputed by the plaintiff and there is no other independent witness evidence to disprove the same. So, the 1st defendant has proved his title over the suit property through Ex.B.1 to Ex.B.4 and Ex.B.9. The plaintiff has not adduced any documents to disprove the said exhibits. Therefore, the plaintiff is not entitled to the reliefs sought in his suit, but the 1st defendant is entitled to the reliefs sought in his counterclaim. The citations relied on by the appellant's side are squarely applicable to the facts of this case.

23.Considering the above facts and circumstances, the trial Court has not properly adjudicated the case in proper perspective without appreciating both sides evidence and thereby erred in decreeing the suit in favour of the plaintiff and dismissing the counterclaim of the 1st defendant. Therefore, the judgment and decree of the trial Court warrant interference by this Court by way of this appeal. Thus, these appeals succeed. The points are answered accordingly.



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24.In the result, these Appeal Suits are allowed. The judgment and decree, dated 09.01.2025 passed in O.S.No.244 of 2023 and counter claim in O.S.No.244 of 2023 on the file of the III Additional District Court, Thanjavur @ Pattukkottai are set aside. The suit in O.S.No.244 of 2023 on the file of the III Additional District Court, Thanjavur @ Pattukkottai is dismissed. The counterclaim in O.S.No.244 of 2023 on the file of the III Additional District Court, Thanjavur @ Pattukkottai is allowed by granting permanent injunction restraining the plaintiff and his men not to disturb the 1st defendant's peaceful possession and enjoyment of the suit property. Consequently, the connected Civil Miscellaneous Petition is closed. No costs.

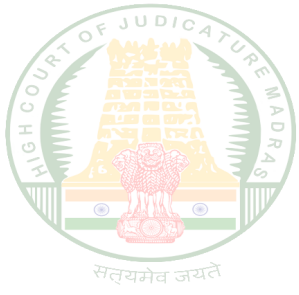
30.06.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD

To

- 1.The III Additional District Court,
Thanjavur @ Pattukkottai.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

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A.S(MD)Nos.32 and 33 of 2025

P.VADAMALAI, J.

VSD

Pre - Delivery Judgment made in
A.S(MD)Nos.32 and 33 of 2025
and
C.M.P(MD)No.1629 of 2025

30.06.2026