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A.S. NO.21 OF 2017**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

<b>JUDGMENT RESERVED ON :</b>	<b>08 / 02 / 2026</b>
<b>JUDGMENT DELIVERED ON :</b>	<b>17 / 02 / 2026</b>

**CORAM :****THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR****AND****THE HONOURABLE MR. JUSTICE R.SAKTHIVEL****A.S. NO.21 OF 2017****AND****C.M.P. NO.745 OF 2017**

1.Thillainayagam (Died)

2.Thillainatarajan (Died)

... Appellants-1 & 2 /  
Plaintiffs

3.T.Chandra

4.P.T.Subashini

5.P.T.Senthilkumar

**Note:**Appellant-2 passed away. Appellant-3 to 5 are brought on record as legal representatives of deceased Appellant-2, vide Order of this Court dated March 12, 2024 made in C.M.P. No.2118/2024 in A.S. No.21/2017.

6.T.Lalitha

**Note:**Appellant-1 passed away. Appellant-6 is brought on record as legal representative of deceased Appellant-1, vide Order of this Court dated



A.S. NO.21 OF 2017

December 5, 2025 made in  
C.M.P. Nos.1216, 1217 & 1218  
of 2025 in A.S. No.21/2017.

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... Appellants-3 to 6/  
Legal representatives  
of plaintiffs

*Versus*

1.Anjammal  
2.Arunkumar

... Respondents /  
Defendants

**PRAYER:** First Appeal filed under Section 96 read with Order XLI Rule 1 of Code of Civil Procedure, 1908, praying to set aside the Judgment and Decree dated August 8, 2016 made in O.S. No.54 of 2015 on the file of II Additional District Court, Chidambaram.

For Appellants : Mrs.Hema Sampath  
Senior Counsel  
Assisted by Mrs.R.Meenal

For Respondents : Mr.A.Muthukumar

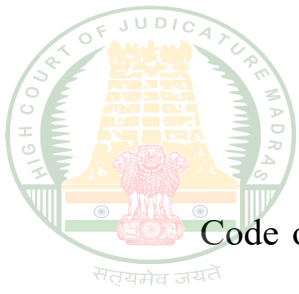
\* \* \* \* \*

## **J U D G M E N T**

**R.SAKTHIVEL, J.**

Feeling aggrieved by the Judgment and Decree dated August 8, 2016, passed in O.S. No.54 of 2015 on the file of 'the II Additional District Court, Chidambaram' ('Trial Court' for short), the plaintiffs therein have filed this Appeal Suit under Section 96 read with Order XLI Rule 1 of the

*Page No.2 of 24*



A.S. NO.21 OF 2017

Code of Civil Procedure, 1908 praying to allow the Appeal, set aside the Judgment and Decree, and decree the Suit as prayed for in the plaint.

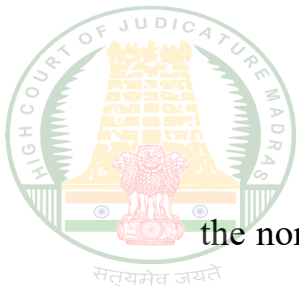
2. For the sake of convenience, henceforth, the parties to this Appeal Suit will be referred to as per their array in the Original Suit.

### **PLAINTIFFS' CASE**

3. The suit properties consist of 'A' and 'B' schedules of properties. The Suit 'A' schedule property measures 22 feet east-west and 172 feet north-south and it lies within the specific four boundaries. The Suit 'B' schedule property, measuring 11 feet east-west and 172 feet north-south, constitutes the western half portion of the Suit 'A' schedule property. In other words, the Suit 'B' schedule property forms a part and parcel of the Suit 'A' schedule property.

3.1. The Suit 'A' schedule property originally belonged to Muthu Padayatchi and his son - Semba Padayatchi as their ancestral entitlement and each were entitled to undivided  $\frac{1}{2}$  share. There existed a tiled house towards the middle of the Suit 'A' schedule property, with its major portion lying on the eastern side. There also existed a 6 feet north-south lane within Suit 'A' schedule property on its western side. The property abutting

*Page No.3 of 24*



the northern boundary of Suit 'A' schedule property belongs to the *Math* of

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*Mouna Guru Manickavasaga Swamigal*. Semba Padayatchi sold his undivided half share in the Suit 'A' schedule property to *Manickavasaga Swamigal* vide Sale Deed dated June 26, 1912, registered on June 27, 1912, under Document No.1446. Pursuant to the sale, *Manickavasaga Swamigal* was in possession and enjoyment of the western half of Suit 'A' schedule property, which is the Suit 'B' schedule property.

**3.2.** Thereafter, under his Will dated December 17, 1921, *Manickavasaga Swamigal* created a religious trust, and *inter-alia* dedicated the property purchased by him through the aforesaid Sale Deed under Document No.1446, to the said trust for religious charitable purposes. Further, under the said Will, *Manickavasaga Swamigal* appointed Ambalavana Pillai, Murugesan Pillai and their *santhathi* (descendants), as trustees to manage and continue the administration of the said trust.

**3.3.** Ambalavana Pillai and Murugesan Pillai discharged their duties as trustees until their respective deaths. Thereafter, Murugesan Pillai's son - Ponnambala Pillai, acted as trustee and was in possession and enjoyment of the Suit 'B' schedule property. During his lifetime, a portion of the tiled house in the 'B' Schedule property collapsed. Ponnambala Pillai died about



30 years prior to the Suit, and since then the plaintiffs, being his sons, have been in possession and enjoyment of the Suit 'B' schedule properties as trustees.

3.4. That being so, the first defendant is the mother of the second defendant and widow of one Chakravarthy. Said Chakravarthy died about four to five years prior to the Suit. Around the year 2009, Chakravarthy encroached upon the southern portion of Suit 'B' schedule property to an extent of 10 feet X 10 feet. Chakravarthy claimed that he had purchased the said portion from Venkatarama Iyer, son of Krishnamurthy Iyer in 1971. The plaintiffs subsequently came to know that Krishnamurthy Iyer had allegedly purchased the property from Krishnasamy Iyer on June 21, 1943.

3.5. Hence, the plaintiffs have filed the present Suit for partition of the plaintiffs' half share in Suit 'A' schedule property and pursuant allotment and separate possession of the Suit 'B' schedule property in favour of them. Further, the plaintiff sought for a mandatory injunction directing the defendants to remove the superstructure put up on the Suit 'B' schedule property.



**DEFENDANTS' CASE**

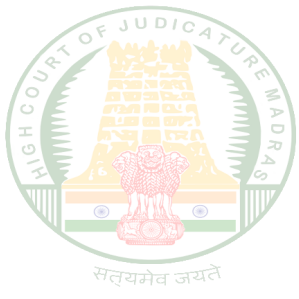
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4. The defendants filed a written statement denying the averments made by the plaintiffs in the plaint. The defendants contended that the registered Sale Deed dated June 27, 1912 executed by Semba Padayatchi, and *Manickavasaga Swamigal's* Will dated December 17, 1921, are irrelevant to the case on hand and also baseless; they are not related to the suit properties. It was further stated that the father of the second defendant purchased the suit properties *vide* Sale Deed dated August 25, 1971 and he was in possession and enjoyment of the same. After his lifetime, the defendants being his successors are in possession and enjoyment of the suit properties. Stating so, the defendants sought dismissal of the Suit.

**TRIAL COURT**

5. On these pleadings, the parties went to trial. The Trial Court framed issues, which can be loosely translated as follows:

- '1 *Whether the plaintiffs are entitled to claim ½ share in the Suit 'A' schedule property?*
2. *Whether the plaintiffs are entitled to seek partition in the Suit 'B' schedule property?*
3. *Whether the plaintiffs are entitled to Preliminary Decree as prayed for?*
4. *Whether the plaintiffs are entitled to Mandatory*



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A.S. NO.21 OF 2017

*Injunction as prayed for?*

5. *To what other reliefs?'*

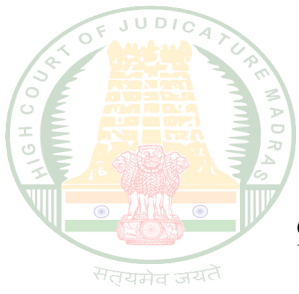
6. At trial, on the side of the plaintiffs, plaintiffs examined themselves as P.W.1 and P.W.2 respectively and Ex-A.1 to Ex-A.3 were marked. On the side of the defendants, second defendant was examined as D.W.1 and Ex-B.1 to Ex-B.14 were marked.

7. The Trial Court after analysing the oral and documentary evidence, concluded that the plaintiffs did not establish that Muthu Padayatchi and his son - Semba Padayatchi were the original owners who were in possession and enjoyment of the suit properties. On the other hand, the defendants have traced title from the year 1903 and proved their possession and enjoyment of the suit properties. As the defendants have a better title in respect of the entire suit properties, the Trial Court dismissed the Suit.

### APPEAL

8. Feeling aggrieved by the Judgment and Decree dated August 8, 2016 of the Trial Court, the plaintiffs have preferred this Appeal Suit.

*Page No.7 of 24*



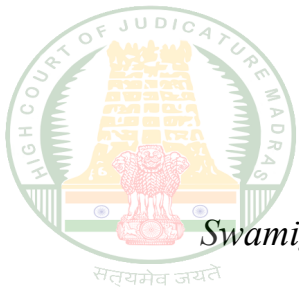
A.S. NO.21 OF 2017

9. Since the second appellant / second plaintiff passed away during the pendency of this Appeal, his legal representatives were brought on record as Appellant Nos.3 to 5, vide Order of this Court dated March 12, 2024 made in C.M.P. No.2118 of 2024 in A.S. No.21 of 2017. Likewise, the first appellant / first plaintiff also passed away during the pendency of this Appeal and his legal representative was brought on record as Appellant No.6, vide Order of this Court dated December 5, 2025 made in C.M.P. Nos.1216, 1217 and 1218 of 2025 in A.S. No.21 of 2017.

### ARGUMENTS

10. Mrs.Hema Sampath, learned Senior Counsel assisted by Mrs.R.Meenal, appearing for the appellants / legal representatives of plaintiffs would submit that the suit properties were originally owned by Muthu Padayatchi and his son - Semba Padayatchi as their ancestral property. *Vide* Ex-A.1 - Sale Deed dated June 26, 1912, Semba Padayatchi sold his undivided ½ share in Suit 'A' schedule property in favour of *Manickavasaga Swamigal*. *Manickavasaga Swamigal's Math* is situate abutting the northern boundary of Suit 'A' schedule property. On the western portion of Suit 'A' schedule property, there is a north-south lane, linking the road on south and the *Math* on north. Hence, *Manickavasaga*

*Page No.8 of 24*



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*Swamigal* was in possession and enjoyment of the western portion of the suit properties; in other words, he was in possession and enjoyment of the Suit 'B' schedule property.

**10.1.** She would further submit that *Manickavasaga Swamigal* executed Ex-A.2 - Will dated December 17, 1921, wherein and whereby, he created a trust and dedicated the property covered under Ex-A.1 along with some other properties to the said trust for religious charitable purposes. The plaintiffs *qua* the present trustees of the trust created by *Manickavasaga Swamigal*, are in possession and enjoyment of the trust's properties including Suit 'B' schedule property. While so, the defendants encroached an extent of 10 feet X 10 feet on the southern portion of Suit 'B' schedule property. Hence, the plaintiffs seeks to partition the Suit 'A' schedule property into equal halves and allot the western half in favour of the plaintiffs after removing the superstructure therein.

**10.2.** She would further submit that the defendants trace their title from the year 1903 under Ex-A.3 - Sale Deed dated February 26, 1903. The suit properties were allegedly purchased from one Sellammal. While the four boundaries mentioned therein correlates with that of the suit properties, the east-west measurement are written in Tamil numerals and

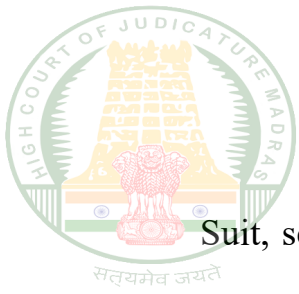


A.S. NO.21 OF 2017

are not visibly clear. According to her, for that reason, the defendants cannot claim title over the entire extent of suit properties.

**10.3.** Further she would submit that Sellammal executed Ex-B.1 - Sale Deed in favour of Samikannu Padayatchi and his brother - Periyathambi Padayatchi, in respect of a north-south stretch of land whose east-west measurement is 19 *foot* [1 *foot* = 12 inches; so 19 *foot* = 15.8 feet], while retaining her hut in the western portion. Thereafter, Samikannu Padayatchi and his minor son executed Ex-B.2 - Sale Deed dated September 2, 1919 in favour of Krishnasamy Iyer in respect of the north-south stretch of land, but with an east-west measurement of 26.5 *foot* [26.5 *foot* = 22 feet as mentioned therein]. When Samikannu Padayatchi's predecessor in title namely Sellammal had sold only east-west 19 *foot* in the north-south stretch of land under Ex-B.1, it is not possible for Samikannu Padayatchi and his minor son to sell east-west 26.5 *foot* under Ex-B.2. In the documents subsequent to Ex-B.2 *viz.*, Ex-B.3 to Ex-B.5, the erroneous measurement of 26.5 *foot* has been followed. Hence, these documents would not bind the plaintiffs. The Trial Court without appreciating Ex-A.1, Ex-A.2 and other evidence available on record, erred in dismissing the Suit. Accordingly, she would pray to allow the Appeal

*Page No.10 of 24*



A.S. NO.21 OF 2017

Suit, set aside the Judgment and Decree of the Trial Court and decree the

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**11.** Opposing the submissions, Mr.A.Muthukumar, learned Counsel appearing for the respondents / defendants would submit that the plaintiff failed to establish that the suit properties originally belonged to Muthu Padayatchi and Semba Padayatchi, nor did the plaintiff establish their alleged possession and enjoyment of the suit properties. Further, Ex-A.1 - Sale Deed & Ex-A.2 - Will are inadmissible as they are not the original documents and there is no foundational plea for letting in secondary evidence. Further, there is no evidence to show that the purchaser under Ex-A.1 and testator under Ex-A.2, namely *Manickavasaga Swamigal*, was in possession and enjoyment of the Suit 'B' schedule property. He would refer to the evidence of P.W.1 and submit that it has been admitted by P.W.1 that the suit properties are not in possession and enjoyment of the plaintiffs. Hence, the Suit as framed by the plaintiffs is not maintainable.

**11.1.** He would further submit that the defendants have successfully traced their title from the year 1903 *vide* Ex-A.3 - Sale Deed, wherein Sellammal @ Sellathamal purchased a north-south strip of land measuring

*Page No.11 of 24*



A.S. NO.21 OF 2017

east-west 25.5 *foot*. Though the east-west measurement is not visibly clear

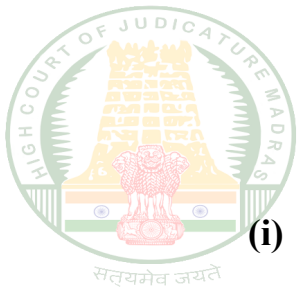
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owing to the age of the document, in the register of index relating to Ex-A.3 - Sale Deed called for from the Registration Department by this Court, the east-west measurement is clearly mentioned as 25.5 *foot*. The subsequent documents in Ex-B.2 to Ex-B.5 proves the defendants title over the suit properties. Further, the second defendant's father - Chakravarthy obtained building permission (Ex-B.6) in the year 2003, wherein the east-west measurement has been clearly mentioned as 21.9 feet. Further Ex-B.7 - Licence to construct building, Ex-B.11 - Property Tax Receipt, Ex-B.12 - Electricity Connection Transfer Letter, Ex-B.13 - Development Charges Receipt, Ex-B.14 - Licence Fee Receipt, these documents clearly establish the defendants' title and possession over the suit properties. The Trial Court after carefully appreciating the entire evidence available on record rightly dismissed the Suit and there is no warrant to interfere with it. Accordingly, he would pray to dismiss the Appeal Suit and sustain the Judgment and Decree of the Trial Court.

### **DISCUSSION AND DECISION:**

12. Upon hearing either side and perusing the evidence available on record, the following points arise for consideration in this Appeal Suit :

*Page No.12 of 24*



WEB COPY



A.S. NO.21 OF 2017

- (i) Whether the suit properties were originally owned by Muthu Padayatchi and Semba Padayatchi as their ancestral entitlement and whether they were in possession and enjoyment of the suit properties in 1912 ?
- (ii) Whether *Manickavasaga Swamigal* was in possession and enjoyment of the Suit 'B' schedule property pursuant to Ex-A.1 - Sale Deed executed by Semba Padayatchi in respect of his ½ undivided share in the suit properties ?
- (iii) Whether the defendants have established their title and possession over the entire extent of suit properties ?
- (iv) Whether the Judgment and Decree of the Trial Court is liable to be interfered with by this Court ?

13. There is no dispute with respect to the lie and location of Suit 'A' schedule property, which is a north-south strip of land [ *தென்வடல் அசல் மனைக்கொத்த வாலொழுங்குள்ள மனை* ]. The Suit 'A' schedule property as described measures north-south 172 feet and east-west 22 feet. It is bounded by the *Manickavasaga Swamigal's Math* on the north; an

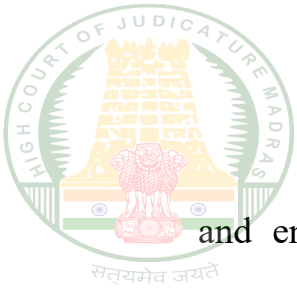
Page No.13 of 24



A.S. NO.21 OF 2017

east-west road on the South; another *Math* on the East; and land belonging to Natraja Padayatchi and Anjala Padayatchi on the West. There is a north-south lane lying within the Suit 'A' schedule property. No serious dispute with the above facts.

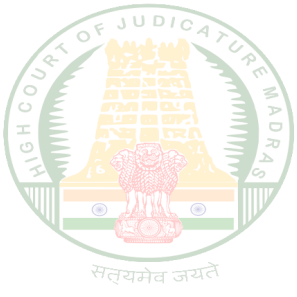
14. In Ex-A.1 - Sale Deed dated June 26, 1912 [registered on June 27, 1912 under Document No.1446], it has been recited that Semba Padayatchi is thereunder selling his undivided ½ share in Suit 'A' schedule property in favour of *Manickavasaga Swamigal*. But there is no documentary or oral evidence to trace the vendor - Semba Padayatchi's title over the suit properties. Further, there is no evidence to show that the vendor - Semba Padayatchi was in possession and enjoyment of the suit properties in 1912, let alone settled possession. Nor is there any evidence to show that pursuant to the sale under Ex-A.1, *Manickavasaga Swamigal* was in possession and enjoyment of the suit properties or any portion thereof. Furthermore, P.W.1 as well as P.W.2, who are the plaintiffs 1 and 2 respectively, have categorically admitted that the defendants are in possession and enjoyment of the suit properties, and importantly, they did not deny Ex-B.1 to Ex-B.5 - Sale Deeds; they pleaded ignorance about the said Sale Deeds. They even about pleaded ignorance about the possession



and enjoyment of Manickavasaga Swamigal. This Court deems fit to extract the relevant portion of the evidence of P.W.1 and P.W.2 hereunder:

Relevant portion from the cross-examination of P.W.1:

"1903 ஆம் ஆண்டு செல்லம்மாள் வழக்கு சொத்தை செல்லம்மாள் என்பவர் கிரையம் வாங்கியிருக்கிறார் என்றால் தெரியாது. 07.07.1911 வருடம் செல்லம்மாள் சொத்தை சாமிக்கண்ணு படையாட்சிக்கு கிரையம் கொடுத்தார் என்றால் தெரியாது. 2.9.1919 சாமிக்கண்ணு படையாட்சி கூத்தாடும் பிள்ளையார் கோவில் தெரு கிருஷ்ணசாமி அய்யறுக்கு கிரையம் கொடுத்தார் என்று தெரியாது. 21.6.1943ல் கிருஷ்ணசாமி அய்யர் அந்த சொத்தை சுப்பிரமணி அய்யர் வெங்கடேசன் அய்யர் மற்றும் இரண்டு மைனர்கள் உட்பட அவர்களுக்கு கிரையம் கொடுத்தார்கள் என்றால் தெரியாது. மாயவரம் தாலுக்கா கோமல் கிராமம் அந்த சமயம் திருவாலூர் தூர்க்க ஆலய தெருவில் 30 நம்பர் வீட்டிற்கும் வெங்கடேசன் அய்யருக்கு கிரையம் கொடுத்த விவரம் தெரியாது. 1944 வருடம் மைனர்கள் இரண்டு பேரிடம் இருந்து சொத்தை விடுதலை வாங்கிய விவரம் தெரியாது, 25.8.1971ல் கிருஷ்ணமுர்த்தி அய்யர் இருந்த சொத்தை சக்கரவர்த்தி கிரையம் கொடுத்தது தெரியாது. வழக்கு சொத்தை பொறுத்து இன்று வரை எந்த விதமான அனுபவமும் எங்களுக்கு கிடையாது. வா.சா.ஆ.1ன் படி 26.6.1912ல் பிரபாவதி வருடம் ஆனி மாதம் 13ல் முத்துகுமார படையாட்சி அவர் மகன் செம்பபடையாட்சி மௌனசாமி மடத்திற்கு எழுதிக்கொடுத்த ஆவணம் ஆகும். அந்தசொத்து செம்பபடையாட்சிக்கோ அவர் தகப்பனார் முத்துகுமாரபடையாட்சி எந்த வகையில் வந்தது என்று சொல்லப்படவில்லை. அந்த செம்பபடையாட்சி வயிற்று பிழைப்புக்காக மடத்தில் இருந்தவர் என்று தெரியாது. இன்றைக்கும் மடத்தில் சாப்பாடு போடப்படுகிறது. அவர் மடத்திற்கு ஏதாவது செய்யவேண்டும் என்றும் ஆவணத்தை உற்பத்தி செய்து கொடுத்தியிருக்கிறார் என்றால் சரியல்ல. அன்றைக்குள் மௌனசாமியார் அந்த ஆவணத்தை ஏற்றுக்கொண்டார்களா என்று தெரியாது..."



A.S. NO.21 OF 2017

Relevant portion from the cross-examination of P.W.2:

"மெளனசாமி மடத்தை நான் 30 வருடங்களாக பராமரித்து வருகிறேன். 22 அடி அகலம் 172 அடி நீளம் உள்ள சொத்ததை பிரதிவாதி அனுபவித்து வருகிறார்கள் என்றால் சரிதான். அவர்கள் அனுபவித்து வரும் சொத்தில் சுற்றிலும் கல் மதில் சுவர் உள்ளது, அந்தசுவர் பழமையானது. அதன் முன்பக்கத்தில் புதியதாக இரண்டு மாடி கட்டிடம் கட்டியிருக்கிறார்கள். பின்பக்கத்தில் ஓட்டு வீடு அப்படியே இருக்கிறது. 1903-ம் ஆண்டு பத்திரம் எழுதி செல்லம்மாள் கிரையம்வாங்கியது தெரியாது. 1911ம் ஆண்டு ஜூலை மாதம் சாமிக்கண்ணுபடையாட்சிக்கு செல்லம்மாள் கிரையம் கொடுத்தது தெரியாது. 2.9.1919 சாமிக்கண்ணு படையாட்சி கூத்தாடும் பிள்ளையார் கோவில் தெரு கிருஷ்ணசாமி அய்யறுக்கு கிரையம் கொடுத்தார் என்று தெரியாது. 21.6.1943ல் கிருஷ்ணசாமி அய்யர் அந்த சொத்தை சுப்பிரமணி அய்யர் வெங்கடேசன் அய்யர் மற்றும் இரண்டு மைனர்கள் உட்படசேர்த்து அவர்களுக்கு கிரையம் கொடுத்தார்கள் என்றால் தெரியாது. மாயவரம் தாலுக்கா கோமல் கிராமம் அந்த சமயம் திருவாலூர் துர்க்க ஆலய தெருவில் 30 நம்பர் வீட்டில் இருக்கும் வெங்கடேசன் அய்யருக்கு கிரையம் கொடுத்த விவரம் தெரியாது. 1944 வருடம் மைனர்கள் இரண்டுபேரிடம் இருந்து சொத்தை விடுதலை வாங்கிய விவரம் தெரியாது. 25.8.1971ல் கிருஷ்ணமூர்த்தி அய்யர் இருந்த சொத்தை சக்கரவர்த்தி கிரையம்வாங்கியது தெரியாது. வழக்கு சொத்தை பொறுத்து இன்று வரை பிரதிவாதிகள் அனுபவித்து வருகிறார்கள் என்றால் சரிதான். 26.6.1912ல் பிரபாவதி வருடம் ஆனி மாதம் 13ல் முத்துகுமார படையாட்சி அவர் மகன் செம்பபடையாட்சி மெளனசாமி மடத்திற்கு எழுதிக்கொடுத்த ஆவணமாகும். அந்த சொத்து முத்துப்படையாட்சி யாரிடம் கிரையம் வாங்கியது தெரியாது. செம்பபடையாட்சிக்கோ அவர் தகப்பனார் முத்துகுமாரபடையாட்சி எந்த வகையில் வந்தது என்று தெரியாது..."

15. Further, as rightly contended by the learned Counsel for the Respondents / Defendants, the Sale Deed and the Will marked in Ex-A.1



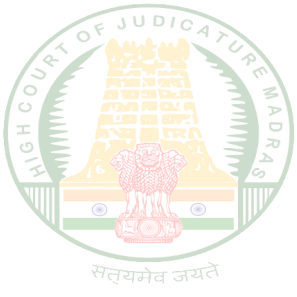
A.S. NO.21 OF 2017

and Ex-A.2 respectively are not the originals and there is no foundational plea in this regard.

16. On the other hand, the defendants have traced their title from 1903 through Ex-A.3 and Ex-B.1 to Ex-B.6 - Sale Deeds. Vide Ex-A.3 - Sale Deed dated February 26, 1903, Sellammal purchased a north-south strip of land in the Suit survey number within specific four boundaries from Gopala Chettiyar and Kuttiaandi Padayatchi. In Ex-A.3, the east-west measurement of the property covered thereunder is mentioned in Tamil numerals and further it is not visibly clear. The measurement could not be deciphered. Hence, this Court vide Order dated January 21, 2026, *inter-alia* directed the Sub Registrar, Chidambaram to produce the register relating to encumbrances during the period of 1890 to 1912 relating to suit properties. The Sub Registrar, Chidambaram produced the register of index relating to Ex-A.3, which clearly shows the east-west measurement of the property covered under Ex-A.3 as 25 ½ *foot*. Relevant extract from the register of index reads thus:

“...வடக்கு விதியில் ஆத்திநாட்டு மடத்துக்கு மேற்கு  
சிதம்பரபடையாச்சி காலிமனைக்கு கிழக்கு  
மவுனசாமி மடத்து தோட்டத்துக்கு தெற்கு

Page No.17 of 24



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A.S. NO.21 OF 2017

வீதிக்கு வடக்கு இதில் ஓட்டுவில்கை கட்டு கோப்பு

60 நெ. காடு காலமனை உள்பட கிமே காலடி 25 1/2 அதிலுள்ள  
மாவடை மரவடை உள்பட அதிலுள்ள வால்வீச்சுத் தோட்டமும்”

17. Hence, it is clear that under Ex-A.3, a north-south strip of land having east-west measurement of 25 1/2 *foot* in Suit survey number within specific four boundaries was sold to Sellammal @ Sellathammal. Admittedly, the specific four boundaries of the property covered under Ex-A.3 matches that of the suit properties and it is in the Suit survey number. Further, the north-south and east-west measurements also more or less matches that of the suit properties. Hence, it is safe to say that Sellammal @ Sellathammal purchased the suit properties under Ex-A.3.

18. After acquiring the suit property which is a north - south strip of land under Ex-A.3, Sellammal executed Ex-B.1 - Sale Deed dated July 7, 1911 in favour of Saamikannu Padayachi and Periyathambi Padayachi, conveying a portion of the suit properties to the extent of east-west 19 *foot*, while retaining the remaining portion on the western side. To be noted, there is no serious dispute with the north-south measurement of the north-south strip of land originally purchased under Ex-A.3; the dispute lies only with its east-west measurement.



**19.** Thereafter, under Ex-B.2 - Sale Deed dated September 2, 1919,

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Saamikannu Padayachi and another sold the north-south strip of land to the extent of east-west 26 ½ *foot*, which is 22 feet as mentioned in Ex-B.2, in favour of Krishnasamy Iyer. It remains unexplained how Saamikannu Padayachi and another sold east-west 26 ½ *foot* [22 feet], when vendor - Sellammal sold only east-west 19 *foot* under Ex-B.1 - Sale Deed.

**20.** Be that as it may, thereafter, the property covered under Ex-B.2 was sold by Krishnasamy Iyer and others, to Krishnamoorthy Iyer, describing east-west measurement as 22 feet *vide* Ex-B.3 - Sale Deed dated June 21, 1943. It is recited therein that the east-west 22 feet includes the 6 feet *Naarasam* on the western side. *Naarasam* as described in *A Comprehensive Tamil-English Dictionary by M.Winslow [Asian Educational Services, New Delhi & Chennai, 2011]*, means a narrow straight land at a right angle to a street. Further, *vide* Ex-B.4 - Release Deed dated January 8, 1944, Minor Natrajan expressed his consent for the sale under Ex-B.3 after attaining the age of majority [though Ex-B.4 bears the nomenclature of Release Deed, it is a Consent Deed in substance].

**21.** Under Ex-B.5 - Sale Deed dated August 25, 1971, Venkatrama Iyer, son of Krishnamoorthy Iyer [vendee under Ex-B.3], sold the same



extent viz., east-west 22 feet, to second defendant's father. Thus, the defendants would trace their title to the suit properties.

**22.** In order to prove their possession and enjoyment of the suit properties, the defendants have marked Exs-B.7, B.11 to B.14. Ex-B.7 is a licence obtained in the year 2001 to construct building, Ex-B.11 is a property tax receipt obtained in 1973, Ex-B.12 is a no objection letter from vendor - Venkatrama Iyer to vendee - Chakravarthy [second defendant's father] written in 1972, for the purpose of effecting electricity connection name transfer. Ex-B.13 - Development Charges Receipt and Ex-B.14 - Licence Fee Receipt were issued in favour of defendants' side in the year 2013. All these documents are in respect of the suit properties. Bare perusal of these documents establish the possession and enjoyment of the north-south strip of land to the extent of east-west 22 feet, by the defendants' side.

**23.** Although the defendants have traced their title from the year 1903 in a largely clear manner, it is true that there exist a small gap or rather discrepancy with respect to east-west extent, in the chain of defendants' title between Ex-B.1 and Ex-B.2 - Sale Deeds as stated *supra*. There appears to be some discrepancy in the extent of east-west 26½ foot



A.S. NO.21 OF 2017

[21 feet] in the north-south strip of land [suit property] conveyed by

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Saamikannu Padayachi and another, inasmuch as their vendor - Sellammal had conveyed only east-west 19 *foot* under Ex-B.1 - Sale Deed while retaining east-west 6 feet in the western side thereof. But in Ex-B.3 - Sale Deed, there is a specific recital that the east-west 22 feet covered thereunder includes the 6 feet *Naarasam*. Furthermore, as stated *supra*, the defendants have established their possession over the entire extent of suit properties vide Exs-B.7, B.11 to B.14. It is possible that Sellammal subsequently conveyed the east-west 6 feet portion retained by her, but there is no evidence in this regard, nor is there any pleadings to explain the discrepancy. However, as elaborated above, plaintiffs' have miserably failed to establish their alleged title, rights and possession over the suit properties. In fact, in their evidence as P.W.1 and P.W.2, they have supported the case of defendants by deposing that the entire extent of suit properties is under the possession and enjoyment of the defendants. Further, have not denied the defendants' Sale Deeds but have just evasively deposed that they are not aware of the same. Further, the Sale Deeds in Ex-B.3 and Ex-B.5 and the Release Deed in Ex-B.4 are originals. Under such circumstances, on a holistic consideration of the facts and circumstances as well as the evidence available on record, this Court comes to the

*Page No.21 of 24*

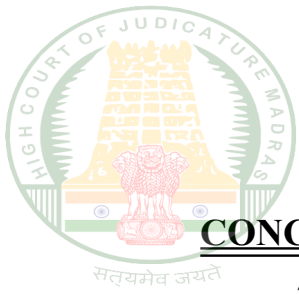


A.S. NO.21 OF 2017

conclusion that the defendants have established a better title than the plaintiffs. Hence, the plaintiffs are not entitled to the reliefs sought for.

24. Moreover, the Suit is not maintainable for the reason that the plaintiffs ought to have filed the Suit in their capacity as trustees of the trust created by *Manickavasaga Swamigal*. The plaintiffs are claiming title and right over the Suit 'B' schedule property by describing it as trust property and by virtue of the fact that they are the present trustees of the trust. Bare reading of the cause title shows that the Suit has been filed by the plaintiffs in their individual capacity. As individuals, they have no claim over the suit properties. Hence, the Suit is not maintainable on that score.

25. The Trial Court after considering the evidence available on record, rightly dismissed the Suit and this Court finds no reason to interfere with its Judgment and Decree. Point Nos.(i) to (iv) are answered accordingly in favour of defendants and against the plaintiffs. As all the points for consideration are inter-twined, they were combined and answered.



A.S. NO.21 OF 2017

**CONCLUSION**

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**26.** Resultantly, the Appeal Suit stands dismissed. In view of the facts and circumstances of this case, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

[N.S.K., J.]

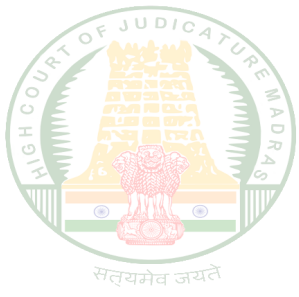
[R.S.V., J.]

17 / 02 / 2026

Index : Yes / No  
Internet : Yes / No  
Neutral Citation : Yes / No  
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To

The II Additional District Court  
Chidambaram.



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A.S. NO.21 OF 2017

**N.SATHISH KUMAR, J.**  
**AND**  
**R.SAKTHIVEL, J.**

TK

**PRE-DELIVERY JUDGMENT MADE IN**  
**A.S. NO.21 OF 2017**

**17 / 02 / 2026**

*Page No.24 of 24*