



SA No.2145 of 2003

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**Date of Reserved : 02/04/2026**

**Date of Pronounced : 06/04/2026**

CORAM:

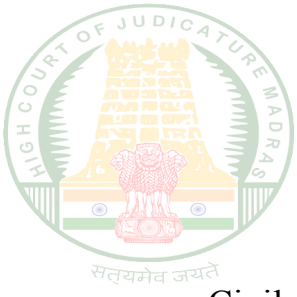
**THE HONOURABLE MS.JUSTICE R.POORNIMA**

**SA No.2145 of 2003**

- 1.S.Selvaraj (Died) : 1<sup>st</sup> Appellant/respondent/  
Plaintiff
- 2.S.Sundariammal
- 3.S.Gurusamy Pandian
- 4.Muthukumar : Appellants 2 to 4/  
LR.s of the 1<sup>st</sup> appellant  
(Appellants 2 to 4 are brought on  
record as LR.s of the deceased sole  
appellant. As per the order, dated  
14/08/2015 made in MP Nos.1 to 3  
of 2015 in SA No.2145 of 2003)

Vs.

- 1.Lakhshiammal (Died) : 1<sup>st</sup> Respondent/Appellant/  
Defendant
- 2.S.Rajendran
- 3.Subbulakshmi
- 4.Kanagammal : Respondents 2 to 4  
(Respondents 3 and 3 are brought on  
record as LR.s of the deceased  
1<sup>st</sup> respondent, vide Court order, dated 25/07/2025  
made in CMP(MD)No.9756 of 2025 in  
SA No.2145 of 2003)



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**PRAYER:** This Second Appeal is filed under Section 100 of the Civil Procedure Code, against the judgment and decree in AS No.4 of 1999 on the file of the Sub Court, Sivakasi, dated 08/08/2003, reversing the judgment and decree in OS No.126 of 1991 on the file of the Additional District Munsif Court, Sattur, dated 30/03/1993.

For Appellants : Mr.S.Meenakshi Sundaram  
Senior Counsel for Mr.S.Yasar Arafat

For 1<sup>st</sup> Respondent : Died

For 2<sup>nd</sup> Respondent : Mr.M.Thilagar

For R3 and R4 : No appearance

### **JUDGMENT**

This second appeal is filed against the judgment and decree passed in AS No.4 of 1999 on the file of the Subordinate Judge, Sivakasi, reversing the judgment and decree passed in OS No.126 of 1991 on the file of the Additional District Munsif, Sattur, dated 30/03/1993.

2.The case of the plaintiff is that the suit-scheduled property was a poramboke land and belonged to the State Government. The plaintiff made an application in the year 1985 to the District Collector of Kamarajar District to make an assignment of land, as he was serving in the Indian Military Service and was eligible for assignment.



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2.1. After adopting all formalities, the Collector directed the plaintiff to pay towards the cost of the land. Thereafter, he paid the market value of the land through a challan, on 16/10/1985. Thereafter, the suit-scheduled property was assigned in his favour by the Tahsildar of Sattur, by his proceedings, dated 16/11/1985. The plaintiff took possession of the land on the very same day itself and a patta was also issued in his favour in patta No.1811. Kist was also assigned in his favour and he has been paying kist from the date of the assignment till this date. Subsequently, since the land was fallow land, he incurred expenditure of Rs.5,000/- to bring the suit-scheduled property under cultivation. He is in possession and enjoyment of the suit property. While so, the defendant having no right over the property is claiming a right over the property and attempted to interfere with the peaceful possession and enjoyment of the suit-scheduled property. The defendant preferred an appeal before the Revenue Divisional Officer against the order passed by the Tahsildar and the same was dismissed by the Revenue Divisional Officer, on 26/08/1989. Against which, a revision also preferred by the defendant and the same was also dismissed by the District Revenue Officer, on 18/12/1990. Against which, he has not preferred any appeal. But he is claiming that he is the owner of the suit-scheduled property by



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virtue of the purchase of the document. He also caused a lawyer notice, on 09/02/1991 with false allegations. The same was suitably replied by the plaintiff. The defendant along with his henchmen attempted to interfere with the suit-scheduled property on 22/04/1991 and tried to interfere with the peaceful possession and enjoyment of the property. Therefore, he filed the suit for a declaration of title and a permanent injunction.

3.The claim of the plaintiff was disputed by the defendant by stating that the suit-scheduled property was a patta land and not a poramboke land. He has stated that the plaintiff, who is not eligible for assignment, with the connivance of the Village Administrative Officer, who was a close relative of the plaintiff, created false records of assignment and obtained the assignment patta, which is improper and illegal. Originally, the defendant alone was in possession and enjoyment of the suit-scheduled property. The suit property is an extent of 40 cents in old paimash No.586/4 together with 1/8<sup>th</sup> well right in Lakshmiपुरam village. The new survey number in the survey and settlement is shown as Survey No.108/1 to an extent of 28 cents and in Survey No.108/4 to an extent of 20 cents and in all 58 cents in Lakshmiपुरam Village. Originally, the property belonged to one Gurusamy Naicker and he had



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executed a sale deed in favour of one Ayyammal, on 14/12/1935. On 05/10/1948, the said Ayyammal along with her husband executed a registered mortgage deed in favour of one Avudaiammal. The mortgage deed covered the suit-scheduled property and other properties. On 10/10/1950, Ayyammal and her husband Periaveerappa Naicker executed a registered sale deed in favour of one Mallappa Naicker for Rs.900/- about a house and from out of the sale proceeds discharged the mortgage. Ayyammal died in 1965 leaving her sons Kandasamy Naicker, Ramasubbu Naicker and the defendant herein as her legal heirs. Tr.Kandasamy, one of the brothers of the defendant Naicker died as a bachelor. There was an oral partition between the defendant and his brother Ramasubbu Naicker. In that partition, the suit-scheduled property was allotted to the defendant. In the survey and settlement, the suit-scheduled property was wrongly shown as Government property. There was no notice issued to the defendant in the survey and settlement, and the entire survey and settlement proceedings are void. He had also filed a suit, on 26/04/1991 against the plaintiff and the State Government. Anticipating that suit, the plaintiff has come forward with the present suit. The defendant raised Velikaruvela Trees in the suit-scheduled property. It was in existence for more than 10 years. The defendant used



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to cut the same. The plaintiff never raised the said trees and prayed for dismissal of the suit.

4. During the trial, on the side of the plaintiff, the plaintiff's wife Sundarambal had been examined as PW1 and marked 9 documents as Exs.A1 to A9. On the side of the defendant, three witnesses were examined as DW1 to DW3 and 11 documents were marked as Exs.B1 to B11.

5. The Trial Court, after considering the entire evidence allowed the suit, by its judgment, dated 30/03/1993, declaring that the plaintiff is the owner of the suit-scheduled property and also granted an injunction against the defendant not to interfere with the peaceful possession and enjoyment of the plaintiff's land.

6. Against which, the defendant who is the aggrieved party filed AS No.4 of 1999 before the Sub Court, Sivakasi. The learned Sub Judge, after hearing the parties, allowed the appeal on 08.08.2003 and thereby set aside the judgment and decree of the Trial Court.



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7. Against which, this second appeal is filed by the plaintiff as  
appellant.

8. Heard the learned counsel appearing on either side and perused the materials available on record.

9. The plaintiff has established his case through the following cogent documentary and oral evidence:

Ex.A1–Assignment order dated 16.11.1985 issued by the Tahsildar, Sattur, granting 58 cents of land in Survey Nos.108/1 and 108/4. Ex.A2–“D” Form patta issued pursuant to assignment. Exs.A3 & A4 are Kist receipts issued in favour of the plaintiff which evidence continuous payment of land revenue from 1986 onwards. These documents clearly proved the valid assignment by the competent authority, and the plaintiff established the delivery of possession, and proved that he is in continuous possession and enjoyment of the property. Further, the defendant’s objection before the Revenue Divisional Officer was dismissed, holding that the defendant failed to establish title or possession. The revision filed before the District Revenue Officer was



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also dismissed, and no further challenge was made. Thus, the assignment has attained finality, and the plaintiff's possession is legally protected.

10. The defendant's claim suffers from serious legal and evidentiary defects, though reliance is placed on Exs.B1 to B3, the defendant failed to correlate old survey numbers with present suit survey numbers conclusively and failed to prove continuous title from predecessors. Though the defendant contended that he became entitled to the suit-scheduled property pursuant to an oral partition among the surviving family members, following the demise of his parents and his brother Kandasamy, who died as a bachelor, he has failed to produce any legal heirship certificate or acceptable documentary evidence to substantiate his claim of succession and partition. He has not produced any evidence to show their lawful succession. No date of oral partition was mentioned, he failed to examine any independent witnesses to prove the same and no documents were produced to corroborate the same. Further, to establish his continuous possession and enjoyment of the suit-scheduled property, the defendant has not produced any patta or kist receipts to substantiate the same.



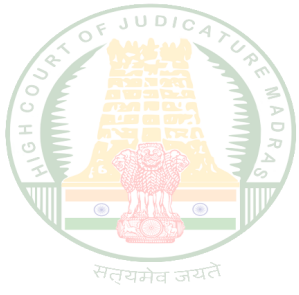
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11. Though the defendant challenged the assignment order before the revenue authorities, but the same was rejected, a revision filed by the defendant was also rejected, however, he has not instituted any suit against the Government seeking to set aside the assignment or for a declaration of his title.

12. The evidence on record indicates that the suit properties are Jameen (Inam) lands, and the defendant has failed to prove how the said lands were dealt with or retained after the coming into force of the abolition enactment, thereby failing to substantiate his claim. However, without taking into consideration the above facts the First Appellate Court committed a serious error by ignoring a valid assignment in favour of the plaintiff, the Revenue records and kist payments produced by the plaintiff and the finality of revenue proceedings but allowed the appeal based on unproven oral partition and unsupported title claims without considering the evidence and material documents.

13. Since the defendant's challenge to the assignment was rejected in the revenue proceedings and he has not taken steps to challenge the same before the appropriate forum, he is estopped from asserting any right over the suit-scheduled property.



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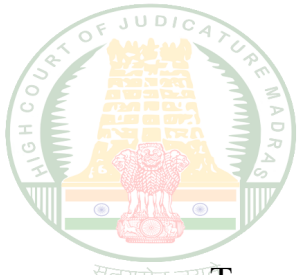
14.The finding of the First Appellate Court is perverse

unsupported by evidence and liable to be set aside.

15.In the result, this second appeal is **allowed** and the judgment and decree passed by the First Appellate Court are set aside. The judgment and decree passed by the Trial Court are restored. No costs.

**06 .04.2026**

Index : Yes / No  
Internet : Yes / No  
NCC : Yes / No  
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To  
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1. The Sub Court,  
Sivakasi.
2. The Additional District Munsif,  
Sattur.

Copy to

1. The Section Officer,  
ER/VR Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**R.POORNIMA, J.**

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Judgment in  
**SA No.2145 of 2003**

**06.04.2026**