

S.A.(MD)No.328 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On	:	06.03.2025
Pronounced On	:	16.06.2025

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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- 1.S.Rajmohan
- 2.S.Rani
- 3.P.Manosanthiammal
- 4.P.Anbuchelian
- 5.P.Meena
- 6.P.Shanthi
- 7.P.Surulimani

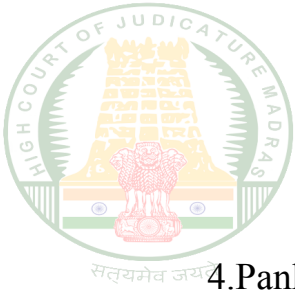
...Appellants/Appellants 1to3 & 5to8/

Plaintiffs1 to 3 & 5 to 8

Vs.

- 1.State of Tamilnadu through
its District Collector,
Theni District, Theni.
- 2.The District Forest Officer,
Theni District, Theni.
- 3.The Forest Ranger,
District Forest Office,
Bodinayakkanur,
Theni District.

... Respondents 1to3/Respondents/
Defendants



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4.Pankajavalli
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... 4th Respondent/4th Appellant/
4th Plaintiff

PRAYER:- Second Appeal is filed under Section 100 of Code of Civil Procedure, to set aside the judgment and decree dated 28.11.2014 made in A.S.No.4 of 2013 on the file of the Subordinate Judge, Theni, confirming the judgment and decree dated 17.10.2012 made in O.S.No. 114 of 2004 on the file of the District cum Judicial Magistrate, Bodinayakkanur.

For Appellant : Mr.M.R.Suriya Narayanan

For Respondents : Mr.M.Muthumanikkam,
Government Advocate (Civil Side)
for R1 to R3
: Mr.T.Antony Arul Raj for R4

J U D G M E N T

Unsuccessful Plaintiffs in O.S.No.114 of 2004 on the file of the learned District Munsif and Judicial Magistrate, Bodinayakanur have filed this Second Appeal challenging the dismissal of their prayer that the suit for declaration and injunction for an extent of 16.49 Acres of Reserve Forest Land and confirmed in AS.No.4 of 2013 on the file of learned Sub-Judge, Theni.



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2. The Plaintiffs except the 4th plaintiff in O.S.No.114 of 2004 are the appellants herein. The defendants and the 4th plaintiff in O.S.No.114 of 2004 are the respondents.

3. For the sake of convenience and brevity, the parties herein after shall be referred to as per their status/ranking before the trial Court.

4. The brief averments made in the plaint are as follows:-

The plaintiffs stated that the suit scheduled property originally belonged to Bodinayakanur Zamin. During the Zamin period, assignment was made in favour of one Perumal Naickar and they had occupied the said lands and planted Silk Cotton plants, Coffee and Citron Plants by investing huge amount. On 05.03.1954, the Bodinayakanur Zamin was taken over by the Government under the Estate Abolition Act, 1948 and final settlement enquiry was completed as per the Act in the year 1962. Without knowledge about the proceedings, on the basis of the enjoyment, the said Perumal Naickar effected registered partition deed on 22.12.1961 and submitted the application to grant Ryoitwari Patta and to remove the classification “Kadu” and same was declined. Challenging



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the same, they had filed a Writ petition before this court and same was remitted to the government to consider the case of Perumal Naickar. During the pendency of the same, the sons of the Perumal Naickar sold the properties to the plaintiffs 2 to 5 by a Sale deed dated 26.07.1969. The plaintiffs 2 to 5 as purchasers have been in possession and enjoyment of the suit property filed this suit to declare the suit scheduled property is their absolute property and permanent injunction restraining the Government officials interfering with their peaceful possession and enjoyment of the suit scheduled property.

5. The brief averments made in the written statement are as follows:-

The Defendants denied the title and the case of the plaintiffs. Under the Estate Abolition Act, 1948, the land was taken over in the year 1954 by the Government. On 02.06.1954, the land was declared as "Reserve Forest' and brought under the control of Forest Department and proper notification was also issued on 02.06.1954 and the further declaration was issued in Government Gazatte as per the Forest Act on 30.04.1977 and also proper revenue declaration with classification



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“Kadu” also was made in the “A” Register. They specifically denied the age of Silk Cotton plants as stated in the plaint and the suit was filed after 40 years from the date of the proceedings taken under the Estate Abolition Act and the Tamil Nadu Forest Act and hence, the suit is obviously barred by limitation. The plaintiffs encroached the lands and thereafter, they filed Writ Petition in W.P.No.1523 of 1999 to fix a sum of Rs.500/- as a lease amount per hectare and the same was dismissed. Further, as per the Tamil Nadu Forest Act once notification was issued, no one is entitled to claim title over the Reserve Forest Land. Further the Hon'ble Supreme Court in the Writ petition No.202 of 1995 specifically held that title of all the forest lands are vested with the Government. Therefore, they seek to dismiss the suit.

6. Based on the above said pleading, the trial Court has framed the following issues:-

- 1. Whether the plaintiff is entitled to get the relief of declaration and consequential permanent injunction as prayed for in the plaint?*
- 2. Whether the land is encroached?*
- 3. Whether the suit is bad for limitation?*
- 4. To what relief the plaintiff is entitled for?*



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7. Before the trial Court on the side of the plaintiffs, the first plaintiff examined himself as P.W.1 and another witness was examined as P.W.2 and Exs.A1 to A8 were marked. On the side of the defendants, one person was examined as D.W.1 and Ex.B.1 and Ex.B.2 were marked and also Ex.C.1 to Ex.C3 were marked.

8. The learned Trial Judge, after framing necessary issues and considering the evidence adduced by both sides, dismissed the suit holding that the plaintiffs have not established their title to the suit scheduled property.

9. Aggrieved over the same, the plaintiffs filed the appeal suit in A.S.No.4 of 2013 on the file of learned Sub Judge, Theni, and the learned 1st Appellate Judge also on re-appreciating the evidence and law on the subject, without finding any merits in the appeal, concurred with the finding of trial Court's judgment and dismissed the appeal.



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10. Challenging the same, the present appeal has been preferred by the plaintiff.

11. This Court framed the following question of law at the time of admission:-

i) Whether the courts below is correct in holding that the suit property is a Reserve Forest as against the records produced by the appellants?.

12.1. The learned counsel for the appellants would submit that both the Courts below without properly considering the documentary evidence adduced by the appellants to prove the title, erroneously dismissed the suit holding that they have not established the title to the suit scheduled property. The Exs.A1 to A8 clearly recognized the title and possession of the plaintiffs and the same was not properly considered by both the Courts below. Even though, the land originally belonged to Bodinayakanur Zamin, and the same was taken over by the Government under the Estate Abolition Act, 1948. The civil Court has jurisdiction to decide the independent title of the plaintiffs as per the law laid down by the Hon'ble Supreme Court in the case of ***State of Tamil Nadu Vs.***



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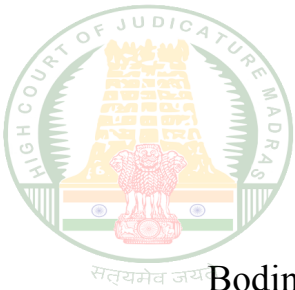
Ramalinga Samigal Madam reported in **AIR 1976 SC 794**, and the

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Courts below failed to consider the same in proper manner.

12.2. The learned counsel for the appellants would further submit that earlier, the vendor of the appellants approached the high Court to give Ryoitwari Patta and the same was remitted to consider the same before the authority and hence, there is *prima facie* title on the basis of the title deed executed by the vendors in the year 1969. Hence, both the Courts below have committed error on record and hence, he seeks to interfere with the judgment of both the Courts below.

13.1. The learned counsel for the respondents would submit that there is no dispute over the proceedings initiated under the Estate Abolition Act 1948, on 02.06.1954 and also the subsequent declaration of the Reserve Forest by issuing a suitable notification and in the said circumstances, without challenging the same, the declaration of title could not be granted and hence, the same was rightly rejected by both the Courts below holding that there was no evidence adduced to prove that the vendor of the plaintiffs had obtained assignment from the



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Bodinayakanur Zamin. No document was produced to show that the property was acquired by the vendor of the plaintiffs before initiation of the proceeding under the Estate Abolition Act, 1948.

13.2. The learned counsel for the respondents would also submit that both the Courts below on appreciation of the oral and documentary evidence found no material to hold the title to the suit scheduled property and hence, no circumstances were established to interfere with the concurrent findings.

13.3. The learned counsel for the respondents would also contend that there is no perversity in the appreciation of both the facts and law and therefore, he prayed to dismissal of the appeal.

14. This Court considered the rival submissions and perused the materials available on record and also the precedents relied upon by them.



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15. The case of the plaintiffs is that the suit schedule property is the property of the Bodinayakanur Zamin. One Perumal Naickar is said to have got assignment from the Bodinayakanur Zamin and enjoyed the said property. On 05.03.1954, all Zamin lands were taken by the Government under the Estate Abolition Act. The said Perumal Naickar without knowledge about the said proceedings had been enjoying the property and partitioned the property between their family members on 22.12.1961. The said Perumal Naickar made a representation to re-classify the land as a “Kadu” and grant ryot patta and the same was declined and hence, he filed the writ petition in W.P.No.2197 of 1964 and this court remitted it back to the government to consider his claim. Pending the same, the plaintiffs Nos.2 to 5 purchased the properties on 26.07.1969. On the basis of the same, they claimed the title.

16. Admittedly, there was no document produced before the court below to prove that the said Perumal Naickar got the assignment from the Bodinayakanur Zamindar. No document was produced to prove his possession over the property during the Zamindari period i.e., before the Government took the lands of Bodinayakanur Zamin under the Estate



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Abolition Act, on 05.03.1954. Even as per the plaintiffs case, the claim of Perumal Naickar to claim the ryot Patta was not considered on the date of purchase of the suit schedule property on 26.07.1969. Therefore, they have not produced any title deed to prove their vendors' title over the suit scheduled property.

17. But, they admitted the case of the Government that the land was taken under the Estate Abolition Act 1948, on 02.06.1954 and subsequent declaration of the land as “Reserve Forest”. Till date, there was no challenge of process of declaration of the forest land.

18. It is true that as per the judgment of the Hon'ble Supreme Court in the case of *State of Tamil Nadu Vs. Ramalinga Samigal Madam* reported in *AIR 1976 SC 794*, the Civil Court has jurisdiction to decide the title of the plaintiffs irrespective of the proceedings under the Estate Abolition Act 1948. But, the plaintiffs have not produced any document to prove their title and their vendors' title. Even as per the averment made in the plaint, they have purchased the property before the claim of their vendor to get Ryoitwari Patta.



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19. Both the courts considered the entire evidence and discussed the Hon'ble Supreme Court judgment in W.P.No.202 of 1995 wherein the Hon'ble Supreme Court clearly dealt with the nature of forest land and concluded that plaintiffs have not established the title and possession over the property.

20. Considering the claim of the plaintiffs over the larger extent of the forest land, this Court called the District Forest Officer to produce the file relating to the said land and the District Forest officer produced the file and it reveals that the lands are Reserved Forest Area and the same has been maintained as per the Forest Act and as on date, there was no person is occupying the land. The Forest Department is maintaining the said land. The Hon'ble Supreme Court in the cases of ***T.N.Godavarman Thirumulpad Vs. Union of India*** reported in ***2006 5 SCC 28***, has issued a direction to preserve and protect the forest land. Apart from that, in the latest decision of the Hon'ble Supreme Court in ***2025 INSC 701*** has reiterated the said direction to preserve and protect the forest land.



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21. In view of the above discussion, this court finds no merits in the appeal and the plaintiffs have not independently established their title to the Reserve Forest land through legal documents and oral evidence as held by both the Courts below. Therefore, the question of law framed by this Court is answered against the appellants and the Second Appeal is liable to be dismissed.

22. Accordingly, the Second Appeal is dismissed and the judgment passed by the Subordinate Judge, Theni, in A.S.No.4 of 2013 dated 28.11.2014 confirming the judgment and decree passed in O.S.No.114 of 2004 on the file of the District Munsif Cum Judicial Magistrate, Bodinayakkanur, dated 17.10.2012, is hereby confirmed. There shall be no order as to costs.

16.06.2025

1/2

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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K.K.RAMAKRISHNAN, J.

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To

- 1.The Subordinate Judge,
Theni.
2. The District Munsif Cum Judicial Magistrate,
Bodinayakkanur.
- 3.The Section Officer,
Madurai Bench of Madras High Court,
Madurai.

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