



W.P.No.15031 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 13.03.2024

PRONOUNCED ON : 22.03.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P.No.15031 of 2019
and
W.M.P.Nos.15000 & 15001 of 2019

1.A.Fathima Bi (deceased)

2. P.Sagabdeen

3. N.Ramachandran

4. A.Kala

5. N.Kirubakaran (deceased)

6. N.Ravikumar

7. S.Ravi

8. I.Zakriya

9. K.Saroja

10. K.Jeevitha

(P9 & P10 are substituted as legal heirs of the deceased P5 by order dated 22.03.2024 in W.M.P.No.8792 of 2024 in W.P.No.15031 of 2019 by SMSJ & KRSJ)



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11. A.Abdul Gani

(P11 is substituted as legal heir of the deceased P1 by order dated 22.03.2024 in W.M.P.No.8793 of 2024 in W.P.No.15031 of 2019 by SMSJ & KRSJ) ... Petitioners

Vs.

1. The Government of Tamil Nadu,
Rep. by its Additional Chief Secretary,
Department of Revenue, Disaster Management,
Land Disposal Wing, Fort St, George, Chennai-9.

2. The District Collector,
Thiruvallur District.

3. The Tahsildar,
Poonamallee Taluk,
Thiruvallur District.

4. The District Elementary Educational Officer,
Thiruvallur District.

5. Mr.B.Manoharan

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to impugned order passed by the 1st respondent in G.O.(Ms)No.104 Revenue and Disaster Management Department, Land Disposal Wing, LD(6)(2) Section dated 25.04.2019 in dismissing the petitioners' revision petitions under Section 10(A)(1)(C) of Tamil Nadu Land Encroachment Act, 1905 and confirming the order dated 02.02.2019 passed by 2nd respondent in Na.Ka.18773/2018/En.1 and 3rd respondent in Na.Ka.395/2018/Aa1 dated 24.09.2018 and quash the same as illegal,



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arbitrary, without jurisdiction and further direct the respondents 1 to 3 to restore the communal nature of land to its original state of “natham” and grant patta in favour of the petitioners for their respective occupation, within a time frame as may be fixed by this Honourable Court.

For Petitioners : Mr.V.Raghavachari, Senior Counsel for
Mr.R.Veeramani

For Respondents : Mr.A.Selvendran,
Special Government Pleader
(for R1 to R4);

Mr.D.Sreenivasan (for R5).

ORDER

(Order of the Court was delivered by S.M.Subramaniam J.)

The petitioners, after exhausting the statutory remedies, contemplated under the provisions of the Tamil Nadu Land Encroachment Act, 1905, instituted the present Writ Petition challenging the Revision Order passed by the Government under Section 10(A)(1)(C) of the Tamil Nadu Land Encroachment Act, 1905, in G.O(Ms)No.104, Revenue and Disaster Management Department dated 25.04.2019, confirming the orders of the First Appellate Authority and the original Authority, rejecting the claim of the petitioners and declaring the petitioners as encroachers.



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2. The facts in brief, relating to the subject property are that Survey No.82/2 of Senneerkuppam Village was registered as follows in pre-UDR Adangals of the Village:

“3.It is submitted that the Survey No.82/2 of Senneerkuppam Village was registered as follows in the pre-UDR Adangals of the above Village:

Fasli	Survey No.	Classification	Extent (in acres)	Patta no. and name of the Pattadar
1379	82/2	Dry	2.86	185,ChakrapaniMudaliyar
1382	82/2	Dry	2.86	185,ChakrapaniMudaliyar
1383	82/2	Dry	2.86	185,ChakrapaniMudaliyar
1393	82/2A	Dry	2.75	185,ChakrapaniMudaliyar
	82/2B	Dry	0.05 ½	334, Nasiyabibi
	82/2C	Dry	0.05 ½	335, Murugesamudali
1393	82/2A1	Dry	2.44 ½	185, ChakrapaniMudali
	82/2A2	Dry	0.05 ½	338, A.Gunasekaran
	82/2A3	Dry	0.05 ½	339, Pattabiraman
	82/2A4	Dry	0.03	340, Sathasivam
	82/2A5	Dry	0.05 ½	341, Nadarajathambiran
	82/2A6	Dry	0.05 ½	342, KuppusamiChettiyar
	82/2A7	Dry	0.05 ½	343, Murugesan

Entry of existing thatched roof school was available in the pre-UDR adangal for fasli 1379 (calender year of 1969)

4.The above survey No.82/2 stood registered as follows in the following sub-divisions in the Updating Registry Scheme A – Register



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Survey No.	Classification	Extent (in Hectares)	Patta no. and Name of the Pattadar
82/2A1A	Dry	0.17.50	384, M.Thiruvengadam (1), M.Ramalingam(2)
82/2A1B	Dry	0.05.50	384, M.Thiruvengadam (1), M.Ramalingam(2)
82/2A1C	Dry	0.01.0	285, K.Muthu
82/2A1D	Dry	0.01.0	308, K.Rajendran
82/2A1E	Dry	0.02.0	356, R.Veerapathiran
82/2A1F	Dry	0.03.50	384, M.Thiruvengadam (1), M.Ramalingam(2)
82/2A1G	Dry	0.07.0	384, M.Thiruvengadam (1), M.Ramalingam(2)
82/2A1H	Dry	0.02.0	272, S.MariyappaNadar
82/2A1I	Dry	0.02.0	123, M.Saraswathi
82/2A1J	Dry	0.02.0	384, M.Thiruvengadam (1), M.Ramalingam(2)
82/2A1K	Dry	0.06.0	384, M.Thiruvengadam (1), M.Ramalingam(2)
82/2A1L	Dry	0.50.0	110, ChakrapaniMudali
82/2A2	Dry	0.02.5	82, A.Gunasekaran
82/2A3	Dry	0.02.5	224, Pattabiraman
82/2A4	Dry	0.01.0	124, Sathasivam
82/2A5	Dry	0.02.0	200, Nadarajathambiran
82/2A6	Dry	0.02.0	87, KuppusamiChettiyar
82/2A7	Dry	0.02.0	286, Murugesan
82/2B	Dry	0.02.5	309, RabiyaBivi
82/2C	Dry	0.02.5	400, S.Thairunamuhamathu (1), T.RAbiyaBibi

5. The above survey Numbers presently stand registered as follows in the computeraised accounts of Seneekuppam Village in Poonamallee Taluk of Tiruvallur District.



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Survey Number	Classification	Extent (in Hectares)	Patta no. and Name of the Pattadar
82/1	Dry	0.76.5	Well
82/2A14	Dry	0.50.00	110, Chakrapani
82/2A1A	Dry	0.17.50	384, M.Thiruvengadam(1), M.Ramalingam(2)
82/2A1B1	Dry	0.01.0	513, S.Prabu
82/2A1B2	Dry	0.2.50	3275, M.Thiruvekadam
82/2A1C	Dry	0.01.0	4201, K.Chandrasekaran
82/2A1D	Dry	0.01.0	308, Rajendran
82/2A1E	Dry	0.02.0	356, Veerapathiran
82/2A1F	Dry	0.03.50	384, M.Thiruvengadam(1), M.Ramalingam(2)
82/2A1G	Dry	0.07.0	384, M.Thiruvengadam(1), M.Ramalingam(2)
82/2A1H	Dry	0.02.0	3837, J.Nirmala
82/2A1I	Dry	0.02.0	6379, M.Nagurhanifa
82/2A1J	Dry	0.01.0	885, Ramakrishanan
82/2A1K1	Dry	0.02.50	384, M.Thiruvengadam(1), M. Ramalingam(2)
82/2A1L	Dry	0.50.0	4907, The District Elementary Educational Officer, Tiruvallur
82/2A2	Dry	0.02.50	86, Gunasekaran
82/2A3	Dry	0.02.50	224, Pattabiraman
82/2A4	Dry	0.01.0	4214, P.Gopinath
82/2A5A	Dry	0.01.0	200, Nadarajthambirar
82/2A5B	Dry	0.01.0	5287, M.Thilagavathi
82/2A6	Dry	0.02.0	87, Kuppusamichetiyar(1), N.K.Cesiliya (2), S.Jayaprakash(3)



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Survey Number	Classification	Extent (in Hectares)	Patta no. and Name of the Pattadar
82/2A7	Dry	0.02.0	286, Murugesan
82/2B	Dry	0.02.50	309, RabiyaBivi
82/2C	Dry	0.02.0	400, NaiyinaMuhamthu(1), Rabiya bee(2)
82/3	Dry	0.01.0	886, Sankar
82/4	Dry	0.02.0	2034, Moorthi
82/5	Dry	0.01.50	2030, Dhamotharan
82/6	Dry	0.02.0	3215, S.Jeevitha

3. Panchayat Union Elementary School has been functioning in Survey No.82/2A1L since 1969. However, there have been encroachments by several persons including the petitioners herein. One D.Manoharan has filed writ petition in W.P.No.28791 of 2017 with a prayer to direct the respondents to take appropriate action to remove the encroachments in Survey No.82/2A1L.

4. This Court passed final orders in W.P.No.28791 of 2017 on 5.02.2018, as follows:

5. Taking Note of the factum that the encroachers referred to in the said letter of the Tahsildar, are not the owners of the property in question, it is needless to hold that the heirs and others of the said ChakrapaniMudali, who had the benefit of getting the property, are entitled to gift the



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property in the name of the third respondent DEEO, to an extent of 0.50.0 hectares in the said survey number, within a period of 15 days from the date when this order is made ready.

6. Though the Encroachers are not made parties before this Court and that there is possibility of the children of those persons who may be studying the said school, we make it clear that while taking action under the provisions of the Tamil Nadu Land Encroachment Act or under any other enactment, the electricity supply to those encroachers must be disconnected with effect from 14.06.2018. In this regard, we suo-motu implead the Assistant Engineer, TANGETDCO/TNEB, Kumananchavadi Range, Seneerkuppam Village, Poonamallee, Chennai -56, as fifth respondent in this Writ Petition."

5. Pursuant to the orders passed by this Court, in W.P.No.28791 of 2017 on 05.02.2018, the legal heirs of the pattadars of Survey Nos.82/2A1L, i.e., Mr.P.Chakrapani Mudali, have executed a gift deed in favour of District Elementary Education Officer, Tiruvallur, in respect of Survey No.82/2A1L, measuring 0.50.0 Hectare, at Sub Registrar's Office Kundrathur on 25.04.2018 in document no.5049/2018. Consequently, patta for the above Survey No.82/2A1L has been mutated in the name of



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the District Elementary Education Officer in Patta No.4907 in the Revenue Accounts of Senneerkuppam Village.

6. Learned Senior Counsel for the writ petitioners Mr.V.Raghavachari would submit that the Ryotwari patta, originally granted in favour of Mr.P.Chakrapani Mudali itself is illegal. The subject properties were classified as “gram natham” and therefore, larger extent of grant of patta in Grama Natham lands was improper. The subject property was a communal land, belongs to the village people and thereafter, the petitioners along with others have occupied the land and are living there for several years. Therefore, the petitioners are entitled to possess the land.

7. Mr.V.Raghavachari, learned Senior Counsel for the petitioners would further contend that the communal land belongs to the people of that Village. Therefore, the occupiers are entitled to get patta in respect of the said land. Earlier writ petition filed by Mr.D.Manoharan was a motivated one and admittedly the Primary School is functioning as of now. Therefore, the action taken by the respondents to declare the petitioners as encroachers and the removal proceedings are improper and to be set aside



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8. It is not in dispute that notice dated 09.08.2018 was issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905. The said notice was served on the petitioners. The petitioners have submitted their representations before the Tahsildar and the representations were rejected in proceeding dated 24.09.2018. Consequently, the third respondent has passed order dated 10.10.2018 under Section 6 of the said Act, 1905 and several to the petitioners.

9. The petitioners preferred an Appeal under Section 10 before the second respondent. The second respondent conducted an inquiry and rejected the Appeal Petitions of the petitioners on 02.02.2019. Thereafter, the petitioners preferred Revision Petition before the first respondent Government, challenging the order dated 02.02.2019. Subsequently, they have filed W.P.Nos.5507, 5509, 5511, 5513 and 5516 of 2019, before this Court with a prayer to direct the respondents to dispose off the stay petition. The Government rejected the Revision Petition of the petitioners under Section 10(A)(1) of the Tamil Nadu Land Encroachment Act, 1905, and orders passed on 25.04.2019 in G.O.Ms.No.104. The miscellaneous petition to recall the orders was dismissed by this Court. Thereafter, the



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present writ petition has been filed challenging the Government Order issued in G.O.Ms.No.104.

10. As per the Inspection Report of the Field Surveyor of the 3rd respondent's Office, in respect of the Survey No.82/2A1L, measuring 0.50.00 Hectares of dry land, the following encroachments are existing in the above Survey numbers, which is classified as patta land and stands registered in favour of the 4th respondent/ District Elementary Education Officer, Tiruvallur, in Patta No.4907 of Senneerkuppam Village in Poonamallee Taluk of Tiruvallur District.

Sl.No.	Names of the encroacher	Extent (in sq mts)	Mode of encroachment
1.	Kirubakaran (5 th respondent)	109	Concrete house
2.	Ramachandran (3 rd respondent)	146	Concrete house
3.	Sagabdeen (2 nd respondent)	97	Cement sheet house
4.	Late. Fathima bi (1 st respondent)	108	Cement sheet house
5.	I.Zakariya (8 th respondent)	112	Concrete house
6.	Ravi (7 th respondent)	175	Concrete house
7.	Devasundaram	53	Concrete house
8.	VijayaVengatesan	75	Concrete house
9.	VijayaVengatesan	163	Shop
10.	Vijayakarunakaran	54	Concrete house



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11. It is submitted that an extent of 2.86 acres in Survey No.82/2, classified as “dry”, stood registered in the name of ChakrapaniMudaliyar in Patta No.185, as per the entries recorded in the adangal for fasli 1379 (calendar year of 1969). Only entries pertaining to the existence of thatched roof school are found in the above adangal. There are no entries as to the existence of houses in this adangal for fasli 1379. Only from the adangal fasli 1399 (Calender Year of 1989), there are entries relating to the existence of houses in Survey No.82/2, stood registered in the name of P.Chakrapani Mudali all along these years.

12. The dry land in Survey No,.82/2 have been sub divided as 82/2A1A, 82/2A1B, 82/2A1C, 82/2A1D, 82/2A1E, 82/2A1F, 82/2A1G, 82/2A1H, 82/2A1I, 82/2A1J, 82/2A1K, 82/2A1L, 82/2A2, 82/2A3, 82/2A4, 82/2A5, 82/2A6, 82/2A7 82/2B and 82/2C and pattas have also been registered in the name of the respective land owners against the above Sub-divisions in the Updating Registry Scheme Accounts. The Sub-division No.82/2A1L, measuring 0.50.0 Hactares, stood registered in the name of P.Chakrapani Mudali in Patta No.110, in the Updating Registry Scheme Accounts. It is pertinent to mention that except the portion in Survey No.82/2A1L, measuring 0.50.0 Hectare (1.24 acres), orally gifted



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for running Government School, the remaining portion of 1.62 acres out of the total extent of 2.86 acres in the Survey No.82/2 was sold as house site to the various individuals and they have been given with UDR pattas in Survey Nos.82/2A1A to 82/2A1K and 82/2A2 to 82/2A7, 82/2B and 82/2C at the time of implementation of Updating Registry Scheme. The area of 0.50.0 Hectare (1.24 acres) in old Survey No.82/2 and now Updating Registry Scheme Survey No.82/2A1L, where the school is running has not been subjected to any transaction. Hence, the status of the old Survey No.82/2, as existed in pre-Updating Registry Scheme accounts and as reflected in the Updating Registry Scheme Accounts in Survey No.82/2A1L is one and the same, i.e., a dry patta land. It is not a Village site (GramaNatham) land or any other communal public land as averred by the petitioners herein and their above contentions are imaginary and far away from the ground reality.

13. In pursuant to the orders passed by this Hon'ble Court on 05.02.2018 in W.P.No.27891 of 2017, the legal heirs of P.Chakrapani Mudaliyar, Pattadar and the lawful owner of the dry land in Survey No.82/2A1L have gifted the entire extent of 0.50.0 Hectare in the above survey number to the 4th respondent in the Gift Deed No.5049/2018.



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Consequently, patta for the dry Survey No.82/2A1L, measuring 0.50.00

Hectare was mutated in favour of the 4th respondent in Patta No.4907 of Senneerkuppam Village.

14. In as much as the portion of land measuring 1.24 acre in old Survey No.82/2 and in Updating Registry Scheme Survey No.82/2A1L, measuring 0.50.0 Hectare was orally gifted to the Education Department by the land owner as early as in the year of 1969 and the same was presented by way of the Gift Deed No.5049/2018. The 4th respondent has become lawful owner of the land in issue. As such, be the contentions raised, these do not deserve for any consideration.

15. The Survey No.82/2A1L is neither a GramaNatham nor a communal poramboke land as per the entries pertaining to the disputed land in the pre-UDR Accounts as well in the Updating Registry Scheme Accounts. The disputed land is a pucca dry patta land, stood in the name of P.Chakrapani Mudali in the Pre-UDR and UDR of Senneerkuppam Village. The Survey No.82/2A1L measuring 0.50.0 Hectare was set apart for running a Government Elementary School as early as in the year of 1969. As such, the land owner has not sold any extent in this survey



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number of Senneerkuppam, even though he has disposed off the remaining area in the Old Survey No.82/2 to the third parties who have obtained pattas in the fasli 1393 (Calendar Year of 1983) prior to UDR and subsequently, the other purchasers in the UDR accounts.

16. As much as the status of the Survey No.82/2A1L is a dry patta land, which was orally gifted for running Government School 5 decades ago and subsequently, the same was legalized by registering Gift Deed No.5049/2018 in favour of the 4th respondent by the legal heirs of the late pattadar P.Chakrapani Mudali, the nature of occupation of the petitioners is nothing but trespassing alone. The petitioners have not produced any valid documentary evidences to prove that the land under dispute is a Gramanatham land, and their allegation that Gramanatham accounts are tampered which does not have credence in the eye of law, in view of the fact that the Survey No.82/2 and its sub-divisions have all along been remaining as only 'Dry' patta land as recorded in the Pre-UDR as well in the UDR accounts of Senneerkuppam Village. Therefore, the above grounds raised by the Petitioners are not at all sustainable either on facts or in law.



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17. When this Court asked a question to the petitioners regarding their right to property, they could not produce any document to establish their right towards the property. The petitioners contended that the subject property was originally classified as “gramanatham” and a “communal land” and in a portion of the property, the primary school is functioning. Further the petitioners have stated that they are in occupation of the land for several years. As we could peruse the entire history as narrated in the counter affidavit filed by the Tahsildar Poonamallee, then the subject property was neither a gram natham nor a communal land. Probably, it was a gram natham prior to the grant of patta in favour of P.Chakrapani Mudali, prior to the year 1969. Thereafter, the land became the patta land and based on the oral gift, the Government School was constructed in the year 1969 and functioning for the past more than 5 decades. Pursuant to the orders of this Court dated 05.02.2018 in W.P.No.27891 of 2017, the legal heirs of P.Chakrapani Mudali, the pattadar and the lawful owner of the dry land in Survey No.82/2A1L had gifted the entire extent of 0.50.00 Hectares in favour of the District Elementary Education Officer in Gift Deed No.5049/2018. Consequently, patta was granted in Patta No.14907 of Senneerkuppam Village. Therefore, the petitioners have failed to establish any right in respect of the subject property. Now after several



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decades, the petitioners cannot question the grant of ryotwari patta in favour of P.Chakrapani Mudali, which was made prior to the year 1959.

The correctness of the ryotwari patta, granted by the Government remained unchallenged for more than five decades and the said P.Chakrapani Mudali became the pattadar of the land, which was entered into the Revenue Records. Thus, the gift executed by the legal heirs of P.Chakrapani Mudali is in favour of the District Elementary Education Officer, Tiruvallur, for running Government School is in accordance with law and there is no infirmity.

18. The original Authority, Appellate Authority and the Revisional Authority/Government have considered the case of the petitioners with reference to the Revenue Records and the documents produced by the petitioners under the provisions of the Tamil Nadu Land Encroachment Act, 1905. All the Authorities have concurrently held that the petitioners are the encroachers of the land belonging to the Education Department of the Government of Tamil Nadu. It is a Government School and the land situates in the outskirts of Chennai city in Tiruvallur District. The market value of the land is sky rocketing and such lands gifted to the Education Department, Government of Tamil Nadu is to be protected for upgrading



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the school in future. The school opened as a Government primary school and therefore, there is a possibility of upgradation of school as high school, higher secondary school etc., The land is required for play grounds for the benefit of the children studying in the school. Thus, encroachment in the said land cannot be permitted. Therefore, this Court has no hesitation in arriving at a conclusion that the petitioners are the encroachers of the land belonging to the Educational Department of the Government of Tamil Nadu and in the subject land, Government Primary School is functioning. Thus, the respondents are bound to evict the petitioners and all other encroachers.

19. Mr.V.Raghavachari, learned Senior Counsel submits that some of the encroachers are poor homeless people. The third respondent, Tahsildar, shall verify the eligibility of the encroachers for allotment of alternate tenement through Tamil Nadu Urban Habitant Development Board and if any of the encroachers are homeless poor people, then they may be considered for allotment of an alternate accommodation through Tamil Nadu Urban Habitant Development Board by ascertaining their eligibility and by following the procedures as contemplated under the relevant statutes or schemes.



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20. In view of the facts and circumstances, the respondents 1 to 4 are directed to evict all the encroachers from the subject property and take possession of the property and fence the same and utilise the property for the development of educational facilities to the children studying in the Government School. The entire eviction proceedings are directed to be completed within a period of four (4) weeks from the date of receipt of a copy of this order.

21. With the above directions, the impugned orders are confirmed and consequentially the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S.J.,)

(K.R.S.J.,)

22.03.2024

Index : Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

(sha)



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1. The Government of Tamil Nadu,
Rep. by its Additional Chief Secretary,
Department of Revenue, Disaster Management,
Land Disposal Wing, Fort St, George, Chennai-9.
2. The District Collector,
Thiruvallur District.
3. The Tahsildar,
Poonamallee Taluk,
Thiruvallur District.
4. The District Elementary Educational Officer,
Thiruvallur District.



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S.M.SUBRAMANIAM, J.

and

K.RAJASEKAR, J.

(sha)

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