



WEB COPY



S.A.No.1352 of 1997

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.11.2025

PRONOUNCED ON : 17.04.2026

CORAM:

THE HON'BLE MR.JUSTICE **V.LAKSHMINARAYANAN**

S.A.No.1352 of 1997

1.Thillai Sabapathy

2.Munisamy @ Perumal (Died)

3.M.Ramakichanan

4.M.Annapourany

5.M.Balaramani

6.M.Mouttougichanan

7.M.Kichanaveny

8.M.Anandharanganathan

... Appellants

(A3 to A8 impleaded as LR's of
the second appellant)

Vs.

1.Vijayarangam (Died)

2.Gajendiran (Died)

3.V.Lakshmiammal

4.V.Soodamani

5.V.Jagadeesan

6.V.Saravanan

7.V.Paderinathan

(R3 to R7 impleaded as LR's
of the first respondent)

8.G.Gowri

9.G.Vinodh



S.A.No.1352 of 1997

10.R.Gopikrishnan

... Respondents

(R8 to E10 impleaded as
LRs of the second
respondent)

PRAYER: Second Appeal filed under Section 100 of Code of Civil Procedure against the judgment and decree of the learned Principal District Judge of Pondicherry dated 17.07.1997 made in A.S.No.16 of 97 confirming the judgment and decree of the trial court dated 15.03.1996 made in O.S.No.851 of 1993 on the file of the III Additional District Munsif Court of Pondicherry.

For Appellants : Ms.G.Sumithra

For Respondents : Mr.Kirubakaran
for Mr.Gunasekaran

JUDGMENT

The plaintiffs are the appellants. They filed O.S.No.851 of 1993 on the file of the 3rd Additional District Munsif at Pondicherry for the following reliefs:

“(i) granting permanent injunction against both the defendants, thereby restraining them, their agents, heirs, from alienating the suit ‘C’ schedule mentioned property or create any encumbrance over the suit ‘C’ schedule mentioned property;



S.A.No.1352 of 1997

(ii) granting permanent injunction against

both the defendants thereby restraining them, their heirs, agents, and servants from interfering into the peaceful possession and enjoyment of the suit 'C' schedule property by these plaintiffs;

(iii) for costs;

(iv) and pass such further or other orders as this court may deem fit and proper in the circumstances of the case.”

2. For the sake of convenience, the parties shall be referred as per their ranks in the suit.

3. The case of the plaintiffs is that the first plaintiff is the owner of the 'A' schedule mentioned property. He had purchased the same, under a French notarial deed dated 20.05.1942, from the grandmother of the first defendant, one Sivabagyathammal. Ever since that date, he has been in possession and enjoyment of the said property.



S.A.No.1352 of 1997

4. The second defendant pleaded that he is the owner of the 'B' schedule mentioned property. According to him, the said property had been purchased by his father under a French notarial sale deed dated 22.09.1915, who had been in possession and enjoyment till his death. On his death, the second plaintiff, succeeded to the estate and had been in possession thereof.

5. The relief sought in the suit does not relate to either 'A' or 'B' schedule mentioned property. It was with respect to the property described under the 'C' schedule. The 'C' schedule property is described as a pond. This pond, it was pleaded, was in common enjoyment of the vendors of the plaintiffs. It was used for drawing water for the purpose of irrigation. The common use of the pond had been sold by the vendors of the plaintiffs. Thereafter, the plaintiffs and their predecessors had been utilising the water from this pond in the 'C' schedule for irrigating their lands in 'A' and 'B' schedule properties.

6. The plaintiffs alleged that there being a lack of rainfall in the area, the pond had dried up. They claimed that they are in possession and enjoyment of Palmyra trees and shrubs, which



S.A.No.1352 of 1997

surrounded the dry land, in the 'C' schedule. Taking advantage of this situation, the plaintiffs alleged that on 28.09.1993, the second defendant started claiming a right over the 'C' schedule, alleging that he had entered into an agreement of sale with the first defendant on 17.09.1993. They tried to take forcible possession of the property mentioned in 'C' schedule, which the plaintiffs prevented. The plaintiffs alleged that the defendants did not have any right, title, or interest over the 'C' schedule. Therefore, they cannot disturb the plaintiffs' peaceful possession and enjoyment of the same. As they feared that the defendants might disturb their possession, they lodged a complaint with the Police. However, being a civil dispute, they approached the civil court for the aforesaid reliefs.

7. The suit was taken on file. Summons were served on the defendants.

8. The defendants filed a common written statement. They pleaded that the first defendant, and, before him, his forefathers were in possession and enjoyment of the 'C' schedule property. This enjoyment was from time immemorial. The first defendant claimed



S.A.No.1352 of 1997

that the 'C' schedule property belongs to him exclusively. The defendants denied that the 'C' schedule property is a pond. They urged that it is only a shallow place, where clay soil had been removed by the first defendants' father and grandfather, for making bricks in a brick kiln. Due to the removal of clay from the said place, it became shallow. During the rainy season, rain water stagnated in the said place. Due to such stagnation, it resembled a pond, but actually, it was not.

9. The defendants pleaded that, even assuming that the C schedule property is a pond, the plaintiffs have no right or locus standi, because they are not the owners of the 'C' schedule. To substantiate this plea, the defendants relied upon patta, chitta, and tax receipts issued by the erstwhile French Land Tax Authority and the present Revenue Department. They denied the allegation that the pond was in common enjoyment of the vendors of the plaintiffs, and that they were drawing water from the pond. They urged that the plaintiffs and their predecessor were irrigating the land, drawing water from the padayatchi “குளம்”, where there is borewell and a pump. On the date of filing of the written statement, they urged that



S.A.No.1352 of 1997

there was no irrigation even from the pump, since the plaintiffs' land were lying fallow and was not under cultivation.

10. The defendants pleaded that the 'C' schedule property was not sold through the alleged sale deeds. They urged that 'A' and 'B' schedule properties have no connection with the 'C' schedule property, and that the latter is separate and independent land belonging exclusively to the first defendant. The defendants pleaded that no sale was executed in favour of the plaintiffs for the 'C' schedule property and that, there is no irrigation channel or well sweep “ஏற்றமரம்” or any other device for channelising water to the 'A' and 'B' schedule properties from the 'C' schedule.

11. It was urged that the 'C' schedule property has always remained a dry land, where rain water stagnated during rainy season. It was further stated that on 'C' schedule property, there are Palmyra trees, Tamarind trees and other trees, which were enjoyed solely by the first defendant and his forefathers. 30 years prior to the suit, the said Tamarind trees, Palmyra trees and other country wood trees were cut and sold by the first defendant and his



S.A.No.1352 of 1997

forefathers to third parties, without any claim or objection raised against the course of action. They denied that the 'C' schedule property and the remaining trees are in possession of the plaintiffs. They also denied the alleged trespass on the ground that since the first defendant is the owner of the property, he had all the rights to enter into the same. The alleged incident of trespass dated 28.09.1993 was denied. They added that the police complaint was given with an ulterior motive. As the first defendant claimed to be the owner of the trees, it was urged that he has the right to cut and remove the trees. On these pleadings, the defendants sought dismissal of the suit.

12. On the basis of these pleadings, the learned Trial Judge framed the following issues:

“1. Whether the plaintiff has any interest in the 'C' schedule suit property?

2. Whether the plaintiff is in possession of the suit 'C' schedule property?

3. Whether the plaintiff is entitled for the injunction as prayed for?

4. So that relief is the plaintiff is entitled?”



S.A.No.1352 of 1997

WEB COPY

13. On the side of the plaintiffs, the son and the power of attorney of the first plaintiff, one Subramanian examined himself as PW1. The second plaintiff examined himself as PW2. A third party, Ariyaputhiri, was examined as PW3. The plaintiffs marked Ex.A1 to Ex.A13. On the side of the defendants, the power of attorney of the first defendant had examined himself as DW1. Two other witnesses were examined as DW2 and DW3. They marked Ex.B1 to Ex.B11.

14. The learned Trial Judge, on the basis of the oral and documentary evidence, came to a conclusion that the plaintiffs had not proved their possession and enjoyment of the 'C' Schedule property, since the settlement register for the 'C' schedule property, marked as Ex.A4, was in the name of the following persons,

- (i) Kuzhandaivelu,
- (ii) Vengadachalam,
- (iii) Thandavamoorthy,
- (iv) Narayanan,
- (v) Chinnakoluthu Thandavarayan, and
- (vi) Periyapet Pattalatchar.



S.A.No.1352 of 1997

He concluded that the plaintiffs are not in possession and enjoyment of the property. Consequently, he dismissed the suit.

15. Aggrieved by the said decree, the plaintiffs preferred an appeal in A.S.No.16 of 1997. Pending the appeal, the plaintiffs filed additional documents, which were received and marked as Ex.A14 and Ex.A15.

16. The learned Appellate Judge came to a conclusion that the plaintiffs had been given a right to draw water for the purpose of cultivation under the French notarial sale deed dated 22.09.1915, marked as Ex.A12 (Tamil translation of which is Ex.A13), but came to a conclusion that as the plaintiffs had not prayed for enforcement of their right to irrigate the 'A' and 'B' schedule property from the Kulam in the 'C' schedule, the suit is untenable. Consequently, he confirmed the findings of the trial court.

17. Aggrieved by the same, the present second appeal.

18. This court admitted the second appeal on the following substantial questions of law:

10/29



S.A.No.1352 of 1997

WEB COPY

1. Whether the lower appellate court was right in not considering the documents filed along with I.A.Nos.178 & 179 /97 filed under Order 41, Rule 27 CPC having allowed the said application.

2. Whether the lower appellate court was right in dismissing the suit more so when the right of irrigation have been conferred on the plaintiffs under Ex.A2 and Ex.A12.

3. Whether the lower appellate court was right in holding that the right of irrigation got dissolved when the joint patta got dissolved when the contents of Ex.A4 and A10 would show that joint patta still existed.

4. Whether the lower appellate court was right in holding that the first defendant is the absolute owner of 'C' schedule property in view of specific recitals in Ex.A4 and A10."

19. I heard Ms.G.Sumithra for the appellants, and Mr.Kirubakaran for Mr.Gunasekaran for the respondents.



S.A.No.1352 of 1997

20. Both the counsel represented that the parties are negotiating a settlement. I granted them time for the said purpose. Thereafter, they reported that the settlement did not crystallise. Hence, I heard them on the merits of the case.

21. Ms.G.Sumithra urges that both the courts below had overlooked the fact that the appellants have claimed only the right of irrigation from the 'C' schedule property to their land situated in 'A' and 'B' schedule. She relies upon Ex.A2 and Ex.A12 to show the existence of pond in 'C' schedule. She read portions of these documents to urge that a specific right of irrigation from the pond situated in 'C' schedule property to their respective lands in 'A' and 'B' schedule, had been given under the said deeds. She urges that the courts below misdirected itself by framing an issue as if the plaintiffs had claimed ownership over the 'C' schedule, when such is not the case.

22. Ms.G.Sumithra points out that the learned Appellate Judge committed a serious error in holding that the right of irrigation gets dissolved, as soon as, the joint patta granted for the land is mutated. She urges, without any document having been filed



S.A.No.1352 of 1997

by the defendants, the Courts below erred in holding that the first defendant is the owner of the property. She states that the learned Appellate Judge did not consider the application filed for letting in additional evidence in I.A.Nos.178 and 179 of 1997, and such non-consideration renders the judgment perverse.

23. Per contra, Mr.Kirubakaran pleaded that being a concurrent findings of the fact, this court ought not to entertain the pleas raised by Ms.G.Sumithra. He urged that the courts below had appreciated the evidence in the correct perspective and concluded that the defendants are the owner of the 'C' schedule property. Hence, he seeks confirmation of the decrees.

24. I have carefully considered the submission on both sides and have gone through the records.

25. This court shall consider the questions of law No.2 to 4 together, since they are inextricably connected.

26. A reading of the plaint shows that the case with which the plaintiffs have approached the trial court was that, they are the



S.A.No.1352 of 1997

owners of the 'A' and 'B' schedule property, and that they are drawing water from the 'C' schedule property for the purpose of irrigation over the aforesaid properties. The learned Trial Judge had construed the plaint as if the plaintiffs had claimed ownership over the 'C' schedule property and since there are no documents pointing out to such ownership or possession, he came to the conclusion that the suit is untenable.

27. The lower appellate court came to a conclusion that the right to draw water had been given to the plaintiffs' predecessors under Ex.A12 in Paimash Nos.1817 and 1819, but had concluded that this right gets dissolved on account of the segregation of the joint patta which existed, into separate pattas. Furthermore, he came to a conclusion that as the plaintiffs did not pray for the enforcement of their irrigation rights in 'A' and 'B' schedule properties from the “குளம்” situated in C schedule and instead, specifically prayed for the defendants to not alienate the 'C' schedule property, no relief can be granted to them. This necessarily requires me to discuss the relevant portions of the plaint and the documents



S.A.No.1352 of 1997

28. Paragraph 3 of the plaint is extracted as hereunder:

“3. Plaintiffs submit that the adjacent to the said ‘A’ and ‘B’ schedule mentioned properties there is a Pond with adjacent upper level lands of குளமும் அதனைச் சார்ந்த மேட்டுப் பகுதியும் which has been described as ‘C’ schedule property hereunder. The said Pond were commonly used by the vendors of the plaintiffs by taking water from the Pond to their respective lands for irrigation purpose. The common use of the said Pond also been sold by the Vendors to the Plaintiffs, and the same has also been mentioned in their respective sale deeds. Accordingly these plaintiffs have been in possession and enjoyment of the suit ‘C’ schedule mentioned property by way of utilising the water from the Pond to their respective ‘A’ and ‘B’ schedule mentioned properties for irrigation purpose from the date of said sale in their favour.”

29. This shows that the plaintiffs had all along claimed only the utilisation of the water from the pond in the ‘C’ schedule for the purpose of irrigating their lands in ‘A’ and ‘B’ schedule. They never claimed that they were enjoying the pond as its absolute owners.



S.A.No.1352 of 1997

30. I should first have to see whether such a right has been conferred on the plaintiffs to draw water from the pond which is situated in the 'C' schedule, to irrigate the lands purchased in the 'A' and 'B' schedule.

31. Ex.A12 is a notarial sale deed dated 22.09.1915. It has been drafted in French. The translated version in Tamil is Ex.A13. The relevant portion reads as follows:

“கிரயம் வாங்குபவர் மேற்படி விற்கப்பட்ட நிலம் அதனைச்சார்ந்த அனைத்தையும், அதிலிருக்கும் மாவிலை மரவிடைகளையும், ஆதுபோலவே பத்தடி புஞ்சை என்னும் நிலம் நெ. 1817, 1819 நிலத்தில் உள்ள குளத்தின் மூலம் நீர்நீர்செய்து கொள்ளவும், இன்று தேதி முதல் கிரயம் வாங்குபவர் மேற்படி அசையாப் பொருளை தற்போது உள்ள நிலையிலேயே ஒப்புக்கொள்ளும் பொருட்டு வருடாந்திர வாய்தாக்களை செலுத்திவரவும் இதற்குண்டான செலவுகளை செலுத்தி ஆண்டு அனுபவித்துக் கொள்ள வேண்டியது.”

(emphasis supplied)

Under Ex.A12, one Chinnakutty Padayatchi had purchased the property from four persons, namely Muthusamy Gounder, Munisamy Gounder, Thandavaraya Gounder and Kandasamy Gounder. This is the title deed of the second plaintiff.

32. Under Ex.A1, the grandmother of the first defendant, namely, Sivabagyathammal, had sold the property to the first plaintiff on 20.05.1942. Ex.A2 is also a notarial sale deed written in



S.A.No.1352 of 1997

French. The translated version is Ex.A3. The relevant portion reads as follows:

“கரியம் வங்கியவா இன்று முதல் மேற்படி பரப்பினையும் இதைச்
சேர்ந்தவற்றையும் வழக்கம் போல் குளத்துக் கிணற்றிலிருந்து தண்ணீர் எடுத்துக் கொள்ளும்
உரிமையுடன் எதனையும் நீக்காமலும் மிகுதி வைக்காமலும் ... முழு உரிமையுடன் ஆண்டு
அனுபவித்துக் கொள்ள வேண்டியது.”

(emphasis supplied)

Under this document too, the first plaintiff was given right to draw the water from the “குளம்”.

33. Both these documents make it clear that a right was given to the plaintiffs to draw water from the pond situated in Paimash No.1817 and 1819. Accepting these documents, the lower appellate court had come to the right conclusion that a right to draw water had been granted to the purchasers. However, it came to the conclusion that as the joint patta which was granted had been dissolved, the right granted under the aforementioned documents also stand nullified.

34. It is a settled position of law that a patta is only a document enabling the State to recover revenue from the persons, whose names are reflected in the revenue patta. A revenue patta, by



S.A.No.1352 of 1997

itself, does not create any right, title, or interest to the property. The right granted under a sale deed cannot be nullified by virtue of a subsequent mutation in the revenue records. This position has been settled for an extremely long time. It has been recently reiterated by the Supreme Court in ***Prahlad Pradhan v. Sonu Kumhar, (2019) 10 SCC 259***. Referring to the earlier judgments, namely:

(i) ***Bhimbai Mahadeo Kambekar v. Arthur Import and Export Co., (2019) 3 SCC 191***;

(ii) ***Narasamma v. State of Karnataka, (2009) 5 SCC 591***;

(iii) ***Balwant Singh v. Daulat Singh, (1997) 7 SCC 137***;

and

(iv) ***Sawarni v. Inder Kaur, (1996) 6 SCC 223***

Justice Indu Malhotra held as follows:

“... entries in the revenue records do not confer title to a property, nor do they have any presumptive value on the title. They only enable the person in whose favour mutation is recorded, to pay the land revenue in respect of the land in question.”



S.A.No.1352 of 1997

35. I need not burden this judgment with any further authorities, as it has been clearly stated that mutation of revenue records is of no avail in matters of title.

36. A right to draw water can be given or transferred under a sale deed. Irrigation rights are inextricably linked to the land being sold. A sale deed can explicitly grant or transfer the right to take water from a specified source like well, channel or pond, as an integral part of the transaction. Where the nature of transfer pertains to an agricultural land, the right to draw water for irrigation cannot be, disassociated from the land, it is intended to serve. Such clauses are included in instruments of conveyances, in order to ensure that, the right to draw water is made legally binding and enforceable. In fact, even without a document, if a person is able to demonstrate before a Court that he has been using a particular property as a source of water for over a long period of time, courts have recognised such a right, notwithstanding the fact that it is not expressly detailed in a document.

37. There are several clear authorities to establish the position that right to draw water from a common source is co-



S.A.No.1352 of 1997

extensive with the rights of a particular party to irrigate the lands.

This is so, because a source of water is inseparably connected with the ownership of lands, and such rights cannot be dissociated from the very lands. This position has been so held by a Bench decision in **Venkatarama Sastri v. Venkatanarasayya, AIR 1929 Mad 25**. It has been held that irrespective of the question of damage, nothing prevents a party from exercising his right to use the water in any manner they like, as it is for the parties to establish their arrangement for drawing the water.

38. Water, being an essential requirement for irrigation and the purchase being that of an agricultural land, the purchasers have been careful while executing Ex.A2 (translated version of which is Ex.A3) and Ex.A12 (translation of which is Ex.A13) to specifically incorporate in the document that they are entitled to draw water from the “குளம்” situated in the land bearing paimash No.1817 and 1819.

39. The conclusion of the learned Appellate Judge, that on account of the subsequent mutation in the joint patta, this right is



S.A.No.1352 of 1997

dissolved, cannot but be termed as perverse. To reiterate, a right granted under a registered deed cannot be nullified by a revenue mutation.

40. The right to draw water has its origin in Roman Law, known as *Servitus aquae haustus* – servitude of drawing water. It has been accepted by several common law countries like India as well. The law on right to draw water has been settled by a judgment of the Privy counsel in ***Gibbons v. Lenfestey, (1915) 113 L.T. (N.S.), 55 (P.C.)***. Lord Dunedin held as follows:

“Where two contiguous fields, one of which stands upon higher ground than the other, belongs to different proprietors, nature itself may be said to constitute a servitude on the inferior tenement, by which it is obliged to receive the water which falls from the superior. If the water, which would otherwise fall from the higher grounds insensibly, without hurting the inferior tenement, should be collected into one body by the owner of the superior in the natural use of his property for draining or otherwise improving it, the owner of the inferior is, without the positive constitution of any servitude, bound to receive that body of water on his property.”



S.A.No.1352 of 1997

41. This position prevails even in a situation, where there is no specific document. However, in the case on hand, there are two documents by which the right to draw water has been specifically transferred to the purchasers. The first plaintiff being a purchaser of the property in the year 1942, and the second plaintiff, being a successor in interest, of the purchaser in 1915, are certainly entitled to enforce that right by seeking an order of injunction.

42. It is here that I would refer to the judgment of a Full Bench of this Court in ***Sheik Hussain Sahib v. Pachipulusu Subbayya and another, AIR 1926 MAD 449***. The bench consisting of Sir Murray Coutts Trotter, CJ., Krishnan and Beasley JJ., were considering a situation whether a person at a lower level can raise an obstruction to the water flowing from the land situated at a higher level. The Full Bench, after surveying the entire position of law, held as follows:

“If the owner of the land at the lower level raises an obstruction to the natural flow of the water he will be restrained if it causes or tends to cause damage to the owner of that on the higher.”



S.A.No.1352 of 1997

This view is also found acceptance at the hands of the Supreme Court in ***Patneedi Rudrayya v. Velugubantla and Others, AIR 1961 SC 1821.***

43. The verdicts rendered above show that the natural flow of water and the right to draw water, if prevented, the persons so affected can approach the court and seek the relief of injunction. The lower appellate court, having come to the conclusion that the right to draw water had been given to the purchasers, had gone about discussing that there were various developments in agricultural techniques, after the sales relied upon by the plaintiffs, had been made. After such discussion, which are neither supported by pleadings nor evidence, he concluded that the plaintiffs are not entitled to the reliefs sought for. We are dealing with a civil litigation. When there are no pleadings or evidence to the aforesaid effect, the lower appellate court erred in presuming such improvements in agricultural activities and on that basis, non-suiting the appellants.

44. Even in the absence of a defined water channel from the defendant's property to the plaintiff's properties, the right to



S.A.No.1352 of 1997

utilise the water does not cease. This legal principle has been laid down in **V. Adinarayana v. P. Ramudu @ Ramasamy reported in (1914) 37 ILR Mad 304**. A Division Bench of this Court held when the identity of the stream is preserved when it passes through the field of the defendant, no obstruction can be made in the said flow preventing the flow of the water into the plaintiff's property. Having come to the said conclusion, the Division Bench granted an injunction, restraining the defendant from interfering with the flow of the water. This principle has been reiterated in **G. Ramakrishna Kamath v. Aithappa Maestry, 1989 (2) Kar LJ 56**. Justice K.A.Swamy (as he then was) held that the natural right to discharge water from a higher level into an adjacent lower level is inherent in the very nature of the land. This right cannot be lost or prescribed against.

45. If this is the position of law, with respect to the natural right to discharge water from one land into another, the case of the plaintiffs is placed higher than the parties in those two cases, where the courts had granted an order of injunction. This is because the plaintiffs herein have in their favour documents, which have granted them, the right to utilise the water flowing from the 'C' schedule



S.A.No.1352 of 1997

mentioned property. The legal principle to receive the flow of water is rooted in the concept of servitudes where a lower estate is generally obliged to receive surface water that naturally flows from a superior estate.

46. As to how the Lower Appellate Judge came to a conclusion that the first defendant is the owner of the 'C' schedule property, is another question which has to be discussed.

47. The defendants had filed tax receipts under Ex.B2 to Ex.B4. Apart from that, the other documents are merely deeds of power of attorney, birth, marriage, and death certificates of some of their predecessors. Tax receipts, as already pointed out, being in the nature of revenue receipts, would not confer title. Similarly, birth, marriage and death certificates also, cannot confer title to a property. Yet, the lower appellate court came to the conclusion that the first defendant is the owner of the 'C' schedule property. Hence, the findings to that effect, require to be vacated and are, accordingly, vacated.



S.A.No.1352 of 1997

48. The lower appellate court directed the plaintiffs to file a fresh suit to enforce their right to draw water. When the present suit in itself relates only to the right to draw water, the necessity to direct them to file a separate suit does not arise. If an owner of the property situated at a higher level, which is the source of water for the land situated at a lower level, interferes with the right, then certainly, a party can approach the court and seek for injunction.

49. In the light of the above discussion, this Court concludes that the courts below have not appreciated the scope of the suit, which was filed for an injunction restraining the defendants from interfering with the plaintiffs' right to draw water from the Pond, described in the 'C' schedule and dismissed the suit. Though the plaintiffs have sought a decree against the defendants not to alienate the same, I am of the view that they are not entitled to the same. Any purchaser of the 'C' Schedule, would be bound to maintain the water source. Hence, the decree of the courts below dismissing the suit in its entirety has to be set aside.

50. The questions of law are answered on the following terms:

26/29



S.A.No.1352 of 1997

Answer for Question Nos.2 & 3:

Having come to the conclusion that the plaintiffs have been conferred the right to draw water from the Pond situated in paimash Nos.1817 and 1819, the courts below erred in dismissing the suit.

The right granted under the sale deed to draw water from the Pond does not get obliterated, by virtue of the joint patta, for the land being mutated.

Answer for Question No.4:

The finding of the first appellate court, that the first defendant is the absolute owner of the 'C' schedule property, is an unnecessary one, and not one substantiated by records.

As Question Nos.2 and 4 have been answered in favour of the appellants, this Court does not find it necessary to answer Question No.1.

51. In the light of the above discussion, there shall be a decree of permanent injunction restraining the defendants, their men, agents and subordinates from interfering with the right of the plaintiffs to draw water from the 'C' schedule mentioned property. The issue of title, being unnecessary to this suit, and as the



S.A.No.1352 of 1997

plaintiffs do not have any right over the 'C' schedule property other than a right to draw water, the relief sought for in the suit prayer (i) cannot be granted. The suit shall stand dismissed insofar as that relief is concerned. Insofar as suit prayer (ii) is concerned, it is granted.

52. The appeal is allowed. The decree of the both the courts below are set aside. The suit is decreed in part with respect to suit prayer (ii) alone. The plaintiffs will be entitled for costs throughout.

17.04.2026

nl

Index : Yes/No
Speaking order/Non-speaking order
Neutral Citation : Yes/No

To

- 1.The Principal District Judge of Pondicherry
- 2.The III Additional District Munsif, Pondicherry
- 3.The Section Officer, VR Records

28/29



WEB COPY



S.A.No.1352 of 1997

V.LAKSHMINARAYANAN, J.

n1

S.A.No.1352 of 1997

17.04.2026