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SA(MD).Nos. 823 & 826 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.07.2026

CORAM

THE HON'BLE MRS JUSTICE T.V.THAMILSELVI

SA.Nos.823 & 826 of 2019
and
CMP.Nos.16745 & 16925 of 2019

S.A.No.823 of 2019

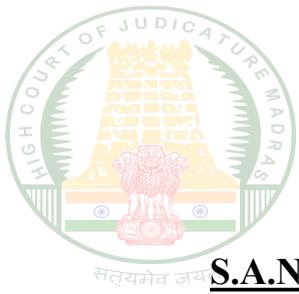
K.Krishnamoorthy ... Plaintiff/1st Respondent/Appellant

Vs.

1.J.Meganathan ... Defendant/Appellant/Respondent

2.K.J.Manjunath ... Defendant/2nd Respondent/Respondent

PRAYER :- Second Appeal filed under Section 100 of Civil Procedure Code, to set aside the judgment and decree dated 19.02.2019 made in A.S.No.32 of 2016, on the file of the learned Subordinate Court, Arakkonam reversing the judgment and decree dated 30.01.2015 made in O.S.No.102 of 2008, on the file of the learned District Munsif Court, Arakkonam by allowing the second appeal.



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G.Manigandan ... Plaintiff/1st Respondent/Appellant

Vs.

1.J.Meganathan ... Defendant/Appellant/Respondent

2.K.J.Manjunath ... Defendant/2nd Respondent/Respondent

PRAYER :- Second Appeal filed under Section 100 of Civil Procedure Code, to set aside the judgment and decree dated 19.02.2019 made in A.S.No.31 of 2016, on the file of the learned Subordinate Court, Arakkonam reversing the judgment and decree dated 30.01.2015 made in O.S.No.100 of 2008, on the file of the learned District Munsif Court, Arakkonam by allowing the second appeal.

For Appellants : Mr.G.Jeremiah
in both appeals
For R1 : Mr.S.Krishnasamy
in both appeals
For R2 : No appearance
in both appeals

COMMON JUDGMENT

Challenging the findings of the appellate court reversing the trial court's decision, the plaintiffs in both suits have filed the present second appeals.



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2.I have heard the learned counsel for the appellants and the learned counsel appearing for the first respondent.

3.For the sake of convenience, the parties are referred to according to their respective ranks before the trial Court.

4.The brief facts of both the cases:-

The case of the plaintiffs is that the suit property, measuring East-West 96 feet and North-South 75 feet in Survey No. 273/1, originally belonged to one Dhanapal, who purchased the same under a registered Sale Deed dated 09.02.1966. From the date of purchase, Dhanapal was in absolute possession and enjoyment of the property and had been paying the relevant taxes. Dhanapal died intestate on 02.08.1996, leaving behind his wife, sons, and daughter as his legal heirs, who succeeded to his estate. Thereafter, the legal heirs of Dhanapal sold the suit property to one Lavanya under a registered Sale Deed dated 15.11.2007 and delivered vacant possession of the property to her. From the date of purchase, Lavanya was in peaceful possession and enjoyment of the property. Subsequently, Lavanya sold an extent measuring East-West 32 feet and



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North-South 75 feet to the plaintiffs under separate registered Sale Deeds dated 09.04.2008, and delivered possession of the respective properties to them. It is the further case of the plaintiffs that their vendor and the vendors vendor had been in continuous, peaceful, open, and uninterrupted possession and enjoyment of the suit property for more than the statutory period. Consequently, the plaintiffs, having continued in such possession to the knowledge of the defendants and all others concerned, claim to have perfected their title to the suit property as absolute owners. While so, on 17.06.2008, the defendants, without any manner of right, title, or interest over the suit property, attempted to interfere with the plaintiffs' peaceful possession and enjoyment of the same, taking advantage of the fact that the plaintiffs were residing at Sholinghur Town, which is about 30 kilometres away from the suit property. Hence, the plaintiffs were constrained to file the present suits seeking the relief of permanent injunction against the defendants.

5. The first defendant contested the suit by filing a written statement, not only denying the plaintiffs' right, title, and possession over the suit property, but also disputing the right, title, and possession of their vendors. According to the first defendant, the property comprised in



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Survey Field No.273/1, Ashok Nagar, Arakkonam Town, originally belonged to one Ammakannu Ammal, who purchased the same under a registered sale deed dated 22.09.1943. Thereafter, she converted the property into house plots bearing Nos.18 to 24 and sold Plot Nos.50 and 51 in S.F.No.273/1, with specific boundaries, to one K.M. Devarajulu Naidu under a registered sale deed dated 02.09.1944. From the date of purchase, the said K.M. Devarajulu Naidu was in absolute possession and enjoyment of the said plots. It is further contended that Kanniyappan and Pachaiyappan, the sons of Ammakannu Ammal, attested the aforesaid sale deed dated 02.09.1944 executed by Ammakannu Ammal in favour of K.M. Devarajulu Naidu. After the demise of K.M. Devarajulu Naidu, his wife D. Amsaveni and his adopted son Manjunath (D2) succeeded to the property and continued in possession and enjoyment thereof. Thereafter, both of them conveyed the property to the first defendant under a registered sale deed dated 10.03.2008. The first defendant further contended that, from the date of his purchase, he has been in peaceful possession and enjoyment of the suit property. Subsequent to the purchase, he constructed a compound wall on the southern side of the property measuring 32 feet East to West and also put up an asbestos-sheet



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shed measuring 11 feet East to West and 16 feet North to South, and has been enjoying the same openly and to the knowledge of the plaintiffs. The first defendant further contended that the plaintiffs have no manner of right, title, interest, or possession over the suit property. Hence, according to the first defendant, the suit is not maintainable and is liable to be dismissed as being devoid of merits. He further stated that, with respect to the suit property in O.S. No. 100 of 2008, one Dhanapal, S/o. Gangadara Mudaliar, had filed a suit in O.S. No. 301 of 1992 against the second defendant's adoptive father, K.M. Devarajulu Naidu, seeking the relief of permanent injunction, and that the said suit was dismissed on 19.12.2003. He further contended that the present suit, filed by the plaintiff seeking only the relief of bare permanent injunction without seeking a declaration of title, is not maintainable, and therefore prayed for the dismissal of the suit.

6. Before the trial Court, in O.S.No.102 of 2008 the plaintiff himself was examined as P.W.1 and 14 documents were marked as Ex.A1 to Ex.A14. On the side of the defendants, D.W.1 to D.W.4 were examined and 7 documents were marked as Ex.B1 to Ex.B7.



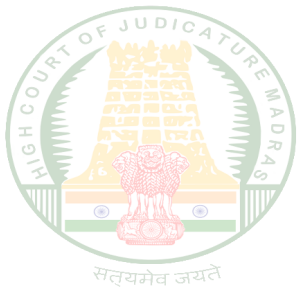
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7. Before the trial Court, in O.S.No.100 of 2008 the plaintiff himself was examined as P.W.1 and 6 documents were marked as Ex.A1 to Ex.A6. On the side of the defendants, D.W.1 to D.W.4 were examined and 7 documents were marked as Ex.B1 to Ex.B7.

8. Decision of the trial Court and the first appellate Court:

Based on the above pleadings, the parties proceeded to trial. Upon considering both the oral and documentary evidence, the Trial Court held that the suit property in Survey No. 273/1, measuring East-West 96 feet and North-South 75 feet, originally belonged to Dhanapal by virtue of the sale deed dated 09.02.1966, which was marked as Ex.A13. The Trial Court also relied upon the tax receipts marked as Exs.A2 to A6 in O.S. No. 102 of 2008 and the Survey Field Register, which was marked as Ex.A5 in O.S. No. 100 of 2008. Although the tax receipts were not sufficient by themselves to establish title, Ex.A6 in O.S. No. 100 of 2008 demonstrated that the property stood in the name of the said Dhanapal, the original owner of the suit property. On the basis of the aforesaid documentary evidence, the Trial Court concluded that the plaintiffs had successfully established the title of their vendor's vendor.

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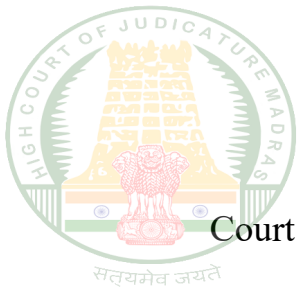
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8.1. Subsequently, after the death of the said Dhanapal, the patta was transferred in the name of his wife, and the same was marked as Ex.A4 in O.S. No.100 of 2008. Based on the said document, the Trial Court held that the legal heirs of the said Dhanapal were entitled to alienate the property. Accordingly, the plaintiffs purchased the suit property from Tmt. R. Lavanya under a registered Sale Deed dated 09.04.2008, which was marked as Ex.A1. Upon considering the said document, the Trial Court held that the vendor, Tmt. R. Lavanya, had valid title to the property and that the plaintiffs had acquired valid title under Ex.A1. Further, by taking into consideration the tax receipts produced by the plaintiffs, the Trial Court held that, on the date of filing of the suit, the plaintiffs were in possession and enjoyment of the suit property, and such possession was duly established through the tax receipts.

8.2. The Trial Court further held that, although the defendants contended that the suit property belonged to Devarajulu Naidu by relying on Ex.B2, they failed to establish, through any supporting documents, that Plot No.24 corresponded to the suit property in question. The Trial

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Court also observed that, although the second defendant claimed to be the adopted son of Devarajulu Naidu, no reliable evidence was produced to substantiate the said claim. The mere production of a xerox copy of the alleged adoption deed, marked as Ex.B6 and dated 18.03.1981, was held to be insufficient to prove a valid adoption by Devarajulu Naidu. Consequently, the Trial Court rejected the defendants' contention. It further held that no findings had been rendered in O.S. No.102 of 2008 on the issue in question and, therefore, the said proceedings would not be fatal to the plaintiffs' claim. Accordingly, the Trial Court held that the plaintiffs were entitled to the relief of permanent injunction as prayed for and decreed the suit. Furthermore, the Trial Judge, while taking into consideration the admission made by D.W.1 during the trial, observed that D.W.1 admitted that the suit property, along with the adjoining western portion of the property as set out in the plaint schedule, belongs to the plaintiffs' family. By placing reliance on the said admission, the Trial Court decreed the suit.

9. Aggrieved by the said findings, the first defendant in both suits filed appeals in A.S. Nos. 31 and 32 of 2016. During the pendency of the appeals, the first defendant filed an application seeking to receive

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additional documents. The application was allowed, and the certified copy of the adoption deed executed by Devarajulu Naidu in favour of the second defendant was received as additional evidence. Consequently, the appellate court framed the necessary issues for consideration.

10. Considering the evidence adduced by both parties, the First Appellate Court held that the suit property originally belonged to one Ammakannu Ammal, who had purchased the same under the registered sale deed dated 22.09.1943 marked as Ex.B1. From the date of purchase, she was in absolute possession and enjoyment of the property as the absolute owner thereof. Subsequently, Ammakannu Ammal conveyed the house plots bearing Nos.18 to 24 and plots bearing Nos.50 and 51, with specified boundaries situated in S.F.No.2373/1, in favour of one K.M. Devarajulu Naidu under the registered sale deed dated 02.09.1944 marked as Ex.B2. The First Appellate Court further held that the plaintiff was not aware of the title and ownership rights acquired by Ammakannu Ammal under Ex.B1, nor did he have knowledge of the subsequent conveyance made by her in favour of Devarajulu Naidu under Ex.B2. Based on the said title, Devarajulu Naidu's adopted son, namely Manjunath, who is the second respondent/second defendant, executed a

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sale deed dated 10.03.2008 conveying the suit property in favour of the first defendant. The First Appellate Court also observed that the trial Court failed to consider the admission made by the plaintiff regarding his knowledge that the second defendant was the legal heir of the deceased Devarajulu Naidu. During the appellate proceedings, Ex.B8, namely the certified copy of the adoption deed, was produced. The first defendant explained the non-production of the original adoption deed by stating that it was misplaced. Though, during his initial cross-examination, he stated that he was in possession of the original adoption deed, he clarified during re-examination that he intended to refer to the certified copy as the original document available with him. Even assuming that the adoption deed was not proved in accordance with law, the fact remains that the plaintiff himself had admitted his knowledge that the second defendant was the adopted son of Devarajulu Naidu. Nowhere in his evidence had the plaintiff disputed that Devarajulu Naidu was the adoptive father of the second defendant. It was further contended that the plaintiff's predecessor-in-interest, namely Dhanapal, had instituted O.S.No.301 of 1992 against the adoptive father of the second defendant, namely Devarajulu Naidu, in respect of the very same property, and the said suit



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was dismissed for default on 19.12.1993. However, the trial Court erroneously held that the dismissal of O.S.No.301 of 1992 for default was not binding on the plaintiff. When a specific question was put to P.W.1 during cross-examination regarding his knowledge of O.S.No.301 of 1992, he stated that the property involved in the said suit was different from the present suit property. However, he admitted that he was aware of the dismissal of the said suit for default. He further stated that he was informed that the property involved in O.S.No.301 of 1992 was not connected with the present suit property. Therefore, from the evidence of P.W.1, it is apparent that he had no direct or personal knowledge regarding whether the property involved in O.S.No.301 of 1992 was identical to the suit property in the present proceedings. P.W.1 also admitted that he had not produced any document, including an encumbrance certificate or any other registered document, to establish that his predecessor-in-interest, Dhanapal, had valid right, title, and interest over the suit property. Nevertheless, P.W.1 stated that he purchased the suit property based on the tax receipts standing in the name of Dhanapal for about 30 years. He also admitted that his claim of title was based upon revenue records. Therefore, it could be concluded that the



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plaintiff's claim of title was founded only upon revenue records and not upon any registered instrument of transfer or conveyance. Since the first defendant had specifically disputed the plaintiff's right and title over the suit property, the plaintiff was required to establish his title by appropriate proceedings. The First Appellate Court observed that the plaintiff could have taken appropriate steps for restoration of the earlier suit by filing an application to set aside the order of dismissal for default, if so advised. The First Appellate Court further observed that dismissal of an earlier suit for default, without adjudication on merits, would not operate as res judicata in a subsequent suit. However, the trial Court ultimately erred in refusing to accept the plea regarding the adoption of the second defendant, despite the production of Ex.B8 and the plaintiff's own admission regarding the relationship between the second defendant and the deceased Devarajulu Naidu. The First Appellate Court also took note of the documents produced by the plaintiff, particularly the receipts relied upon by him, which only indicated possession and did not establish title. Accordingly, the First Appellate Court allowed the appeal and consequently dismissed the suit filed by the plaintiff.

11. As against the said reversal findings, the present second appeals
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have been filed by the plaintiffs.

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12. This Court framed the following substantial questions of law.

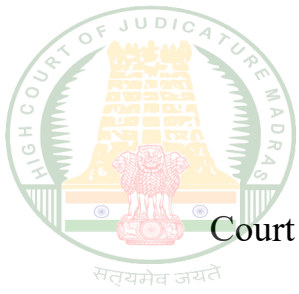
“a) Whether the finding of the Lower Appellate Court that a suit for a bare injunction was not maintainable in view of the dispute in title is correct?

b) Whether the Lower Appellate Court is correct in law in holding that the title of the appellants Ex.A2 to Ex.A11 and Ex.A12 and A13 was based on revenue records and property tax receipt Ex.A4 and A6 in the light of Ex.A1 to A3 documents of title?

c) Whether plea of adoption made by D2 is proceed as per manner known to law?

13. Arguments of the learned counsel for the appellant:

The learned counsel for the appellant/plaintiff submitted that the first appellate Court had erred in law in non-suiting the appellant on the ground that the appellant ought to have sought a declaration of title, since the respondent had denied the appellant's title. The learned counsel pointed out that the lower appellate Court had failed to consider the title documents marked as Ex.A1. It was contended that the lower appellate

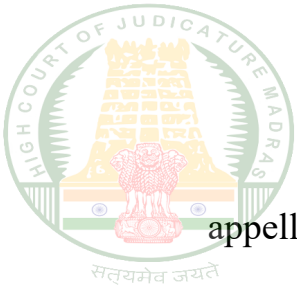


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Court ought to have appreciated that, in a suit for injunction, the paramount consideration for the Court is the actual physical possession of the property. The learned counsel for the appellant further contended that, in respect of a vacant site, the only documentary evidence that could be relied upon would be the revenue records and tax receipts. He submitted that the lower appellate Court had completely misconstrued the oral evidence of P.W.1 and had failed to appreciate the evidence of D.W.2 and D.W.3 in their proper perspective. The learned counsel therefore prayed that the Second Appeal be allowed by setting aside the judgment and decree passed in A.S. No.32 of 2016 and by restoring the judgment and decree passed by the trial Court in O.S. No.102 of 2008.

14. Arguments of the learned counsel for the respondents:

Per contra, the learned counsel appearing for the first respondent submitted that, before the trial Court, the plaintiff had failed to prove the right and title of his vendor's vendor merely by relying upon the revenue records. It was contended that the plaintiff had purchased the property subsequently. On the other hand, the first respondent had produced the documents relating to his vendor's vendor from the year 1944 onwards and had also produced the adoption deed of his vendor before the first



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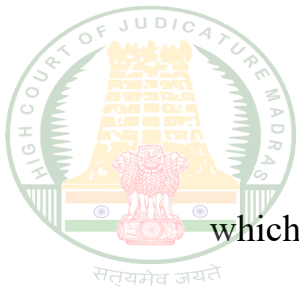
appellate Court, thereby establishing that the first defendant had made a valid purchase of the suit property. It was further submitted that the plaintiff purchased the property only one month thereafter, which would not bind the defendant, nor did the plaintiff's vendor have any valid title to convey the property. Therefore, the first appellate Court had rightly allowed the appeal and dismissed the suit. The findings of the first appellate Court are well-reasoned and do not warrant any interference.

15.I have carefully considered the submissions advanced by the learned counsel for the parties.

16. Analysis:

Based on the sale deed Ex.A1, the plaintiffs purchased the suit property from their vendor on 09.04.2008. According to the plaintiffs, their vendor, Lavanya, had purchased the said property, measuring an extent of 32 x 75 feet, under a sale deed dated 15.11.2007 from the legal heirs of Dhanapal. The plaintiffs have also produced the said sale deed, which was marked as Ex.A3, standing in the name of Dhanapal, dated 09.02.1966. A combined consideration of Exs.A1 to A3 in O.S.No.100 of 2008 reveals that after the demise of Dhanapal, the patta was transferred in his name,

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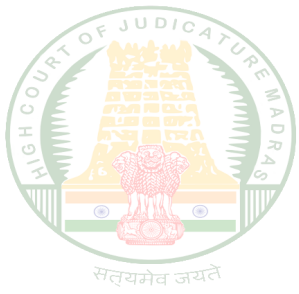
which was marked as Ex.A4. Subsequently, the Town Field Survey records and tax receipts clearly establish that, from the year 1966 onwards, Dhanapal was in possession and enjoyment of the suit property after his purchase. Therefore, prima facie, the plaintiffs have proved that their vendor had valid right and title over the suit property in both suits. To establish their possession, the plaintiffs have produced tax receipts and other relevant documents. These documents demonstrate that the plaintiffs are in possession and enjoyment of the property. The said documents were rightly appreciated by the trial Court, which granted the relief of permanent injunction. Since the plaintiffs have established their title and proved their possession over the suit property, and since the cause of action pleaded by them is that the defendants attempted to interfere with their possession, the plaintiffs were justified in filing the suits for permanent injunction.

16.1. The first appellate Court held that the title was disputed by the defendants and, therefore, observed that the plaintiffs, having claimed a settled proposition of law, were entitled to an injunction once their title was prima facie established. In the present case also, the plaintiffs and the



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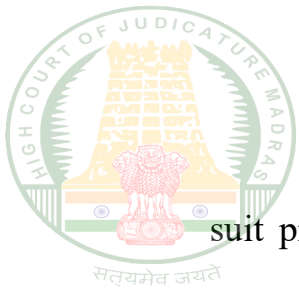
defendants are neighbours. The defendants caused interference with the plaintiffs' possession, which compelled the plaintiffs to file a suit for permanent injunction. The plaintiff is the absolute owner of the suit property by virtue of a sale deed executed in his favour. He produced the sale deed standing in his name, as well as the documents relating to his predecessors-in-title and the vendors' vendors from the year 1966 onwards. The plaintiff has also prima facie established that his vendor had valid right and title over the suit property and that the property was in the possession of the plaintiff and his predecessors. Thus, it is prima facie proved that the plaintiff has valid right and title over the suit property, which was rightly appreciated and analysed by the trial Court. However, the first appellate Court failed to properly appreciate the documentary evidence and erroneously allowed the first appeal. The first appellate Court also committed an error in holding that the plaintiff had acquired the property merely based on the tax receipts, resulting in an erroneous finding. Therefore, the title of the plaintiff was prima facie established. The first appellate Court failed to consider the findings recorded by the trial Court and erroneously reversed the same. Thus, question of law (a) and (b) are answered.



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16.2. With regard to the adoption, mere assertion of adoption is not sufficient; it requires valid proof and supporting evidence. However, no such evidence was produced on behalf of the defendants 1 and 2. The second defendant, who claimed to be the adopted son, remained ex parte and did not enter the witness box before the first appellate Court. Though the certified copy of the adoption deed was produced and marked as Ex.B8, the same was not accepted as sufficient proof of adoption. In this regard, the arguments advanced by the appellant, relying upon the ratio laid down in the case of *Ghisalal vs. Dhapubai* reported in (2011) 2 *Supreme Court Cases* 298, is squarely applicable to the facts and circumstances of the present case. When the plaintiff disputed the title of the first defendant's vendor, it was incumbent upon the first defendant to prove that the second defendant was the legally adopted son of Devarajulu Naidu. Thus question of law (c) is answered. Further, the first defendant failed to produce necessary evidence to establish his vendor's title. Though he produced the sale deed marked as Ex.B7, there is no proof to show that the alleged sale deed was acted upon or that any right was conveyed thereunder. Therefore, the first defendant failed to establish his vendor's title and also failed to prove that Plot No.24 relates to the 19/22



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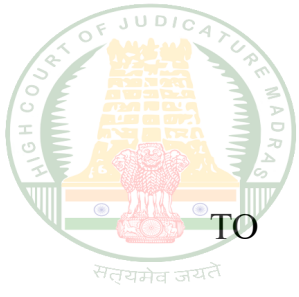
suit property. In the absence of such proof, he cannot claim any right, title, or interest over the suit property. The said finding was rightly arrived at by the trial Court. However, the first appellate Court erroneously dismissed the suit on the ground that the plaintiff had not proved possession through tax receipts, or title documents. The documents produced by the plaintiff disclose that he has been in possession and enjoyment of the property from the year 1966 onwards. The same is sufficient to grant the relief of injunction.

17. Accordingly, both the appeals are allowed and the findings of the first appellate Court is set aside. The suits are decreed as prayed for. Substantial questions of law are answered against the respondents and in favour of the appellants. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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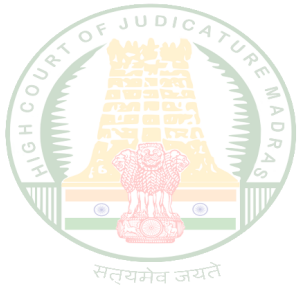


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Arakkonam
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T.V.THAMILSELVI,J.

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