

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

TUESDAY, THE 11TH DAY OF AUGUST 2015/20TH SRAVANA, 1937

Ex.SA.No. 4 of 2015 ()

AGAINST THE JUDGMENT IN AS NO.302/2014 of DISTRICT
COURT, THIRUVANANTHAPURAM DATED 16-01-2015

AGAINST THE ORDER IN EA NO.74/2009 IN EP NO.359/2005 IN OS NO.885/1960 OF II
ADDITIONAL MUNSIF COURT, THIRUVANANTHAPURAM DATED 04.06.2014

APPELLANT(S)/APPELLANTS/RESPONDENTS:

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1. SREEBALA, AGED 50 YEARS, D/O.SARADAMMA,
RESIDING AT ANU BHAVAN
BUILDING NO.VP 1/627, PONNAMCHUNDU,
VITHURA, NEDUMANGADU TALUK, TRIVANDRUM - 695 551.
 2. PRAMEELA, AGED 49 YEARS
D/O.SARADAMMA, RESIDING AT ANU BHAVAN
BUILDING NO.VP 1/627, PONNAMCHUNDU, VITHURA
NEDUMANGADU TALUK, TRIVANDRUM - 695 551.
 3. JAYACHANDRAN, AGED 45 YEARS
S/O.SARADAMMA, RESIDING AT ANU BHAVAN
BUILDING NO.VP 1/627, PONNAMCHUNDU, VITHURA
NEDUMANGADU TALUK, TRIVANDRUM - 695 551.

BY ADV. SRI.K.P.SREEKUMAR

RESPONDENT(S)/RESPONDENT/PETITIONER:

EDWIN PEREIRA, AGED 60 YEARS
S/O.PEREIRA, T.C.32/2713, KAIRALI LANE
CHACKAI, THIRUVANANTHAPURAM - 695024.

BY ADV.SMT.DAISY A.PHILIPPOSE (CAVEATOR)
ADV.SRI.JAI GEORGE (CAVEATOR)

THIS EXECUTION SECOND APPEAL HAVING BEEN FINALLY HEARD ON
24.07.2015, THE COURT ON 11-08-2015 DELIVERED THE FOLLOWING:

A.HARIPRASAD, J.

Ex.S.A. No.4 of 2015

Dated this the 11th day of August, 2015

JUDGMENT

The judgment debtors/respondents in E.A.No.74 of 2009 in E.P.No.359 of 2005 in O.S.No.885 of 1960 on the file of the II Additional Munsiff Court, Thiruvananthapuram are the appellants. The said application was filed by the 22nd decree holder (the sole respondent in this proceedings) under Section 151 read with Order XXI Rule 97 of the Code of Civil Procedure, 1908 (in short, "the Code"). Prayer in the petition reads as follows:

"For the reasons stated in the accompanying affidavit it is most respectfully prayed that this Honourable Court may be pleased to pass an order in the above E.P. To evict the respondents from decree C schedule property and to remove the obstruction caused by the respondents by arresting them and detaining them in civil prison and to pass an order directing that the petitioner may be put into possession of the Decree C schedule property, in the interest of justice."

The execution petition was filed for effecting delivery of decree B and C schedule properties in terms of the final decree in a suit for redemption of mortgage. As per order dated 14.02.2007 in the execution petition, the

properties were ordered to be delivered on 22.02.2007. Accordingly, a warrant was issued to the Amin on 21.02.2007 for delivering the properties, except a piggery. Ten days time was granted for delivering the piggery. Thus the decree schedule properties, except the piggery, were delivered on 22.02.2007. Thereafter the Amin filed a report on 23.02.2007. It is the contention of the respondent that on behalf of the appellants, Shri Raghuvaran Nair, husband of the first respondent, had signed the delivery kaichit. Later, on 18.03.2007 the appellants trespassed into the decree C schedule property. Crime No.79 of 2007 of Vithura Police Station was registered against the appellants under Sections 188, 447 and 448 read with Section 34 of the Indian Penal Code. On 03.08.2007 a final report was submitted in the above crime before the court concerned. Thereafter on 28.03.2007, the appellants committed theft of rubber latex and another case was registered in the same Police Station as Crime No.88 of 2007, wherein also a final report was submitted. The appellants filed E.A.No.359 of 2007 on 21.03.2007 after trespassing into the property, in which they sought a declaration that the decree in O.S.No.885 of 1960 was not binding on them. They claimed to be owners of 2.88 acres of property comprised in survey No.3/1 of Vithura Village. It is the contention of the respondent that the appellants purchased the property from some one, whose predecessor-in-interest was the third defendant in the suit and the sale put forward by them is a transaction *pendente lite*. As such, the appellants are

bound by the decree. Building bearing No.VP 1/627 has been mentioned in the commissioner's report filed on 07.06.1997 in the suit and identified as one situated in the plaint schedule property. Value of the same was assessed along with other improvements and the same was deposited by the decree holders before the court. According to the respondent, the property trespassed upon by the appellants is part of decree C schedule property and the appellants are liable to be evicted therefrom. As per the Village records, the total extent of land available in survey No.3/1 of Vithura Village is only 8.68 acres and that is decree C schedule property in O.S.No.885 of 1960. No property other than this is available in the said survey number. Delivery of the decree schedule property was effected on 22.02.2007 and satisfaction of the decree was reported on 23.02.2007. Appellants filed E.A.No.359 of 2007 only on 21.03.2007 after one month from the date of delivery with an oblique motive to harass the decree holders. E.A.No.359 of 2007 was dismissed on 11.08.2008 and the execution petition was closed on that date. E.A.No.649 of 2008 was filed by the appellants to restore the application (E.A.No.359 of 2007). That was also dismissed on 12.11.2008. Appellants by way of challenging the said order filed W.P.(C) No.35882 of 2008 before this Court and on 09.01.2008 the same was also dismissed as withdrawn. Even after dismissal of all these petitions filed by the appellants, they are not permitting the respondent to enjoy the property. Hence the respondent approached the

court below with a petition for evicting the appellants from decree C schedule property and detaining them in civil prison.

2. The appellants (judgment debtors) filed a counter affidavit contending that the petition is not maintainable. The property over which the appellants set up right, title and interest has been described in the schedule to the counter affidavit. According to them, they purchased the property by sale deed No.872 of 1977 of Sub Registrar Office, Vithura. The property was purchased in the name of their mother, Saradamma, for and on behalf of the appellants. Subsequently a release deed was executed bearing No.1488 of 1998. Third appellant purchased ten cents of property in survey No.3/1 by sale deed No.488 of 1983. Out of 2.88 acres of land in survey No.3/1, 48 cents was sold by the appellants and the balance is held and owned by them in which building Nos.VI/627 and 628 were constructed by them and they are residing therein without any objection from anyone. Though the entire 2.40 acres was shared between the appellants, it was held as one block within which there are two independent houses. Neither the appellants nor their predecessors-in-interest were judgment debtors in the execution petition. The proceedings therefore is not binding on the appellants. Decree C schedule item No.1 measuring 8.68 acres is lying on the east of the appellants' property measuring 2.10. acres. The property claimed by the appellants is not part of the decree schedule property. They claimed right over a property lying on the west of the decree schedule

property which had not been measured by the Amin or any of the commissioners. The respondent has no right to evict the appellants from the property over which they lay a claim. The Amin did not report that the houses bearing Nos.VP 686 and 687 have been evicted pursuant to the decree. The Amin did not identify the properties. They raised serious challenge against the Amin's report and various commissioner's reports and sketches. The contention that they trespassed upon the property subsequent to eviction is false.

3. The court permitted parties to adduce elaborate oral evidence and large number of documentary evidence. The executing court extensively considered the evidence adduced before it and found that the case set up by the appellants is legally unsustainable and the appellants were directed to surrender vacant possession of the property shown in Ext.C1(a) plan and the house therein to the respondent within a period of two months. Dissatisfied with the finding of the executing court, they preferred A.S.No.302 of 2014 before the Court of District Judge, Thiruvananthapuram. Learned District Judge re-appreciated the whole evidence. For definite reasons, learned District Judge found that the claim of the appellants is without any legal basis and hence the appeal was dismissed.

4. Heard Sri K.P.Sreekumar, learned counsel for the appellants and Smt.Daisy A.Philipose for the respondent.

5. Chronology of events are as follows: On 31.10.1960, O.S.No.885 of 1960 was filed before the trial court for redemption of mortgage relating to plaint B and C schedule properties and also for recovery of possession of the properties on payment of mortgage money. Other claims were also raised in the suit. It is the case of the contesting parties that on 28.06.1973, the third defendant, Sivarajan, sold 2.88 acres of property comprised in survey No.3/1 of Vithura Village (part of C schedule property) to one Abraham Punnoose by Ext.A18. Fact that it is a *pendente lite* transfer is not challenged. On 18.07.1973, the appeal filed against the decree was dismissed. On 06.06.1977, Abraham Punnoose sold the property to one Bhaskaran Nair and his children who are the present appellants. On 19.10.1977, second appeal filed before this Court by Sivarajan and others challenging the preliminary decree was also dismissed. Later the final decree proceedings started. On 17.03.1979, a final decree application was filed. On 09.06.1997, the first commissioner filed a report (Ext.A2) showing the value of improvements. On 11.07.1997, final decree in the matter was passed (Ext.A1).

6. On 18.06.2005, E.P.No.395 of 2005 was filed for execution of the decree. In the execution side, a commissioner was appointed and he filed a report on 18.11.2006 after assessing the value of additional improvements effected after Ext.A2 report. On 14.02.2007, executing court ordered delivery of property in the said execution petition and the case was

posted to 22.02.2007 for report. That is produced as Ext.A3. On the date stipulated, the property was delivered in execution and on the next day, Amin filed the delivery report (Ext.A4). It is the case of the respondent that the appellants were evicted from the property and they vacated the houses in decree C schedule property after removing their movable properties. It is also contended by the respondent that husband of the first appellant and the third appellant had signed on the delivery report. Thereafter on 18.03.2007, appellants trespassed into decree C schedule property and various crimes were registered in connection with the alleged incidents happened subsequent to the trespass. On 21.03.2007, the appellants filed E.A.No.359 of 2007 in the said execution petition for declaring that the property scheduled therein was owned, possessed and enjoyed by them as true owners. That is produced as Ext.B10. In that matter, a commission was appointed and the Advocate Commissioner filed a report which is marked as Ext.B29. Respondent had filed an objection to the said application, filed by the appellants, alleging that the appellants were rank trespassers. Thereafter on 11.08.2008, E.A.No.359 of 2007 filed by the appellants was dismissed for default and the execution petition was closed on that date recording full satisfaction of the decree. On 12.11.2008, execution application filed by the appellants as E.A.No.649 of 2008 to restore the dismissed execution application (E.A.No.359 of 2007) was also dismissed. They challenged the order before this Court in a writ petition

and it was dismissed as withdrawn on 09.01.2009 (Ext.B11). Thereafter the executing court proceeded with the matter on various dates. Evidence on both sides have been adduced. After dismissal of the claim petition (E.A.No.359 of 2007) in the said execution petition, the present execution application (E.A.No.74 of 2009) was filed by the respondent on 20.01.2009. Later, the executing court dismissed E.A.No.74 of 2009 and also E.A.No.190 of 2009, filed for appointing a commissioner to identify the property. Against those orders respondent preferred C.R.P.No.279 of 2010 before this Court. A learned Single Judge of this Court allowed the revision and passed the following orders:

“Resultantly the revision petition is allowed in the following lines :

(i) Dismissal of E.A No.74 of 2009 is set aside. That application is remitted to the executing court for fresh consideration. It will be open to the petitioner to seek review of the order dated 11-08-2008 recording full satisfaction in E.P No.359 of 2005 and closing the said E.P.

(ii) In the light of the order I have passed in this revision petition it will be open to the petitioner to seek review of the order on E.A No.190 of 2009 and request executing court to depute an Advocate Commissioner if necessary with the assistance of Surveyor to identify the property in dispute and referred to in E.A No.74 of 2009 and decide

whether it formed part of decree schedule property.

(iii) Needless to say that respondents will get opportunity to raise their objection to E.A No.74 of 2009 notwithstanding dismissal of E.A No.359 of 2007.

(iv) Executing court shall conduct enquiry on E.A No.74 of 2009 along with E.P No.257 of 2009 and pass appropriate orders as circumstances warranted.”

7. Subsequent to the remand order, E.A.No.556 of 2010 in E.A.No.190 of 2009 was filed to review the order dated 07.04.2010. E.A.No.557 of 2010 in E.P.No.359 of 2005 to review the order dated 11.08.2008 was also filed. As per orders passed on the said execution applications, the executing court reopened the execution petition and it was restored to file. As per order on E.A.No.190 of 2009 a commission was ordered to be appointed to identify the property. On 09.03.2012, a commissioner was appointed with the help of surveyor. On 03.09.2012, the commissioner filed a report with a plan. It is pertinent to note that no objection was filed by any of the parties challenging the commissioner's report urging a prayer either to set aside or to remit the report and plan. Even thereafter evidence was adduced by the parties. On 04.06.2014, the impugned order was passed by the executing court. The said order was challenged in appeal before the District Court, Thiruvananthapuram. The appeal was dismissed on 16.01.2015. This is the catalogue of events in

the proceedings.

8. As seen from the above facts, this case has a chequered career reminding the saying by the Privy Council during early part of the previous century that the worry of an Indian plaintiff starts after the decree.

9. Learned counsel for the appellants mainly contended that the trial court and the lower appellate court without taking care to identify the properties and without making an effort to find out whether the properties claimed by the appellants formed part of the decree schedule, allowed the applications, thereby causing substantial prejudice to them. Per contra, learned counsel for the respondent contended that there cannot be any doubt that the appellants set up a claim in respect of a portion of C schedule property, which was transferred to their predecessor-in-title *pendente lite* and for that sole reason they are bound by the decree.

10. It is to be remembered that as in the case of any second appeal, here also the point to be decided is whether there is any substantial question of law arising for determination. According to the appellants, maintainability of an application under Order XXI Rule 97 of the Code after taking delivery of the property in execution and recording full satisfaction in the execution proceedings is the prime question to be determined. In otherwords, after closing the execution proceedings recording full satisfaction of the decree, can it be reopened by a petition under Order XXI Rule 97 of the Code? Yet another question arising is

whether E.A.No.74 of 2009 from which orders under challenge were passed is barred by res judicata. Further question, according to the appellants, is whether the court below was justified in granting an order of eviction without identifying the properties involved in the dispute.

11. Learned counsel for the respondent contended that none of the above said questions arise for consideration for multiple reasons. First of all, except the question of identity, all other questions have been considered and decided by this Court in the previous round of litigation. Pronouncement of the judgment in C.R.P.No.279 of 2010 concluded the said issues, contended the respondent. Most important aspect is that the appellants did not challenge the order of remand passed by this Court in C.R.P.No.279 of 2010. The order passed by this Court in that matter has become final and, therefore, it is binding on both the parties. For that reason, it is very clear that the questions decided therein cannot be re-agitated between the same parties in the next round of litigation.

12. Learned Single Judge while disposing of C.R.P.No.279 of 2010 between the same parties considered the question whether an application relating to execution, discharge and satisfaction of the decree can be entertained after recording full satisfaction of the decree. This Court considered the ratio in *Dasan Nadar Surendran v. Parameswaran Pilla Thankappan Nair and Another* (2007 (4) KHC 39) and held that notwithstanding the recording of full satisfaction of the decree in the earlier

execution petition, if there was further obstruction at the instance of the judgment debtor, it is open to the decree holder to file an application under Section 47 of the Code. It was also held that it cannot be said that the subsequent act of the judgment debtor created a fresh cause of action and the decree holder is not bound to file a separate suit. Learned Single Judge, in the context of the facts in this case, held that since full satisfaction of the decree was recorded, the order passed thereon has to be reviewed to avert the application of res judicata. This Court in the earlier round of litigation clearly held, based on the decision in Raman v. Karthikeyan (1984 KLT 1071), that if a person who claimed to be in possession on his own right, independently of the judgment debtor, whose claim cannot be said to be made in good faith, then the court will issue a fresh warrant and will direct delivery of possession by removal of such person who refuses to vacate the property. The observation made by the Supreme Court in Brahmddeo Chaudari v. Rishikesh Prasad Jaiswal & another ((1997) 3 SCC 694) is also relied on by the learned Single Judge in C.R.P.No.279 of 2010 to observe that the provisions in Order XXI of the Code laid down a complete code for resolving all disputes pertaining to execution of the decree for possession and remedy of the parties concerned is to have their grievance once and for all finally resolved in the execution petition itself. Therefore, the contention of the appellants that after taking delivery of the property pursuant to the execution of decree and

after recording full satisfaction of decree, the case cannot be reopened by a petition under Order XXI Rule 97 of the Code is legally unsustainable.

13. Case of the appellants that the plea raised in E.A.No.74 of 2009 by the respondent is barred by res judicata is also baseless. Question of res judicata does not arise in this case primarily for the reason that the order of remand passed by this Court in C.R.P.No.279 of 2010 has become final as the appellants did not choose to challenge the same. Further, as per the order of remand mentioned above, the court below was directed to reconsider the issue on the basis of guidelines given therein. According to the respondent, subsequent to delivery of the property and recording full satisfaction of the decree, the appellants trespassed upon the property necessitating the respondent to seek a further delivery. Therefore, the question now urged in E.A.No.74 of 2009 cannot be said to be heard and finally decided in the earlier round of litigation. For the said reasons, operation of the principle of res judicata does not arise in this case.

14. What is remaining is the disputes relating to identity of the property. According to the appellants, the property admeasuring 2.88 acres claimed by them lie on the west of decree C schedule property. It is their definite case that the property claimed by them does not form part of the decree C schedule. After the remand, a fresh commission was issued. Exts.C1 report and C1(a) plan were submitted by the commissioner. The commissioner was examined as CW1. In Ext.C1(a), the commissioner has

shown the lie of property in accordance with survey demarcations. Admittedly the commissioner inspected the property with the help of a surveyor. As per Ext.C1(a) plan, the property now claimed by appellants is on the north-western side of decree C schedule property. It further shows that ABCDEFGHIJK is the decree schedule property. It takes in survey Nos 3/1 and 4/1. It is indicated in the plan that the total extent of the property as per document is 13.51 acres. Out of that, 42 cents in survey No.3/2 is puramboke. Remaining 8.67 acres is the extent of property in survey No.3/1. 4.41 acres forms part of survey No.4/1. As per the commissioner's plan and report, IJLMNOP shown in the plan is the property included in Ext.B1 document over which the appellants claimed title. The commissioner has clearly stated that the property in Ext.B1 document lies in survey No.3/1. In the report and plan as well as in the deposition of the commissioner, she maintained that the property claimed by the appellants as per Ext.B1 is part of decree C schedule property. CW2, the surveyor also supported the evidence tendered by the commissioner and asserted that the property has been correctly identified with reference to the survey demarcations and documents.

15. Learned counsel for the appellants contended that the commissioner did not receive the documents supplied by the appellants at the time of inspection. It is also contended that the commissioner has no case that she had taken relevant documents from the court before visiting

the property along with the surveyor. Learned counsel for the appellants on that basis contended that identification of the properties said to have been done by the commissioner can never be correct. During the cross examination, questions were put to the commissioner to suggest that she did not collect relevant documents to identify the property. All these contentions have been stoutly denied by the commissioner. The fact that the appellants did not seriously object to the commissioner's report either by filing an application to remit the same or to set aside the same is a vital omission on the part of the appellants. Questions regarding commissioner's flaw in identifying the property should have been established as questions of fact either before the executing court or before the first appellate court. Contentions of that nature cannot be raised in a second appeal, unless it is shown by the appellants that non-identification of the property by the commissioner as stated by them caused prejudice to their legal rights. In the absence of establishing such an aspect, the facts concluded by the courts below cannot be reconsidered in a second appeal. Therefore, testimony of the commissioner and the surveyor coupled with the statements in the report and plan would show that the properties have been clearly identified by the commissioner and that Ext.B1 property falls within the decree C schedule property. And therefore, it forms a part of the decree schedule.

16. Learned counsel for the appellants contended that Ext.A4

Amin's report also does not reveal the identity of the property delivered. Amin who delivered the property was examined as DW7. In Ext.A4, DW7 has mentioned the eastern boundary of Ext.B1 property as a property measuring 2.10 acres. In chief examination itself, he has explained that instead of writing 20.10 acres as the eastern boundary of the property, he has inadvertently written as 2.10 acres. According to his evidence, he identified the property before delivery and he also affirmed that Ext.B1 property falls within the decree C schedule. In spite of cross examination, no material could be brought out to show that there was any mistake in identifying the properties involved in the delivery report. Therefore these facts, which are accepted by the courts below, go against the appellants. Facts concluded by the two courts cannot be upset in the second appeal, especially when there is no perverse appreciation of evidence by the courts below.

17. Learned counsel for the respondent relying on **Raj Kumar v. Sardari Lal ((2004) 2 SCC 601)** contended that the appellants being assignees from a *pendente lite* transferee cannot claim any better right than the original defendant. To support her contention, paragraph 5 of the said decision, which reads as follows, is relied on.

“The doctrine of lis pendens expressed in the maxim “ut lite pendente nihil innovetur” (during a litigation nothing new should be introduced) has

been statutorily incorporated in Section 52 of the Transfer of Property Act, 1882. A defendant cannot, by alienating property during the pendency of litigation, venture into depriving the successful plaintiff of the fruits of the decree. The transferee pendente lite is treated in the eye of the law as a representative-in-interest of the judgment-debtor and held bound by the decree passed against the judgment-debtor though neither has the defendant chosen to bring the transferee on record by apprising his opponent and the court of the transfer made by him nor has the transferee chosen to come on record by taking recourse to Order 22 Rule 10 CPC. In case of an assignment, creation or devolution of any interest during the pendency of any suit, Order 22 Rule 10 CPC confers a discretion on the court hearing the suit to grant leave for the person in or upon whom such interest has come to vest or devolve to be brought on record. Bringing of a lis pendens transferee on record is not as of right but in the discretion of the court. Though not brought on record the lis pendens transferee remains bound by the decree.”

From the evidence on record, it is clear that the property covered by Ext.B1 falls within decree C schedule and the document admittedly was created during the pendency of the litigation. Therefore, the principle in the

decision squarely applies. To buttress the contention that a transferee *pendente lite* is bound by the decree just as much as he was a party to the suit, another decision of the Supreme Court in **Sanjay Verma v. Manik Roy ((2006) 13 SCC 608)** is pressed into service. In order to reinforce the contention of the respondent that he has legal right to file a petition under Order XXI Rule 97 of the Code for removing obstruction to delivery of possession, a decision of the Supreme Court in **Bhanwar Lal v. Satyanarain ((1995) 1SCC 6)** has been cited. The proposition reads as follows:

“ The procedure has been provided in Rules 98 to 103. We are not, at present, concerned with the question relating to the procedure to be followed and question to be determined under Order 21 Rules 98 to 102. A reading of Order 21, Rule 97 CPC clearly envisages that "any person" even including the judgment-debtor irrespective whether he claims derivative title from the judgment-debtor or set up his own right, title or interest de hors the judgment-debtor and he resists execution of a decree, then the court in addition to the power under Rule 35(3) has been empowered to conduct an enquiry whether the obstruction by that person in obtaining possession of immovable property was legal or not. The decree-holder gets a right under Rule 97 to make an application against third parties to have his obstruction removed and

an enquiry thereon could be done. Each occasion of obstruction or resistance furnishes a cause of action to the decree-holder to make an application for removal of the obstruction or resistance by such person.”

The expression “any person” occurring in Order XXI Rule 97 of the Code has been explained by another decision of the Supreme Court in **Silverline Forum Pvt. Ltd. v. Rajiv Trust**((1998) 3 SCC 723). The Supreme Court held that a third party to the decree including transferee *pendente lite* can offer resistance or obstruction and questions arising from such resistance can be decided in a proceeding under Order XXI Rule 97 of the Code.

18. Learned counsel for the appellants contended that the commissioner was not justified in discarding the documents produced by the appellants before her at the time of inspection. Relying on **Easwar Gangaram Pattil v. Uduppi Madhava Mandiram Trust** (2012 (4) KLT 1), it was contended that the commissioner should have received those documents at the time of inspection and verified the identity of the property with reference to those documents. In **Easwar Gangaram Pattil's** case, it was mentioned that there is no provision in the Code or in the Rules of Practice enabling a party to file a work memo to the commissioner. Fact that the commissioner has identified the property with the help of surveyor and with reference to documents has come out in evidence. Further, the

report of the Amin coupled with his evidence also fortify that there cannot be any further dispute regarding the identity of the property. Contentions raised by the appellants regarding the identity of houses shown in Amin's report also disproved by Exts.X9 to X11 Assessment Registers. Therefore, I am of the view that the courts below correctly analysed the evidence and arrived at the correct conclusion. Substantial questions of law raised can only be decided against the appellants in the light of the factual and legal aspects discussed above.

In the result, the appeal is dismissed. No order as to costs.

All pending interlocutory applications will stand dismissed.

A. HARIPRASAD, JUDGE.

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