

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 26.02.2015

Judgment pronounced on : 10.03.2015

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU

Second Appeal No.435 of 2014

and

M.P.No.1 of 2014

1. The Joint Sub-Registrar No.II,
Joint Sub Registrar-II Office,
Villupuram.
 2. The District Registrar,
Office of the District Registrar,
Villupuram.
 3. The Inspector General of Registration,
Department of Registration,
Chennai.
 4. The Government of Tamil Nadu,
Rep. By its District Collector,
Villupuram District,
Villupuram.
- ...Appellants/Defendants

-Versus-

Anna Matha Teacher's Training Institute,
Rep. By its Correspondent,
A.Jayachandran,
S/o.Angamuthu,
Residing at No.23/F/4, Rahim Layout,
Villupuram.

...Respondent/Plaintiff

This second appeal is filed against the judgment and decree dated 03.12.2013 made in A.S.No.24 of 2012 on the file of the Principal District Judge, Villupuram, confirming the Judgment and decree dated 06.07.2011 made in O.S.No.50 of 2009 on the file of the learned Principal Subordinate Judge, Villupuram.

For Appellants : Mr.P.H.Arvinth Pandian,
Additional Advocate General-V
Assisted by Mr.T.Jayaramaraj
for Appellants

For Respondent : Mr.S.Parthasarathy for Respondent
Mr.V.Lakshminarayanan [Amicus Curiae]

JUDGMENT

The respondent herein filed O.S.No.50 of 2009 on the file of the learned Principal Subordinate Judge, Villupuram, against the appellants herein, claiming compensation to the tune of Rs.1,92,050/- with interest @ 12% p.a. from the date of plaint. The said suit was decreed by the trial court as prayed for, by decree and Judgment dated 06.07.2011. Aggrieved over the same, the appellants/defendants preferred an appeal in A.S.No. 24 of 2012 before the learned Principal Subordinate Judge, Villupuram. The learned Principal Subordinate Judge, by decree and Judgment dated 03.12.2013, dismissed the appeal thereby confirming the decree and Judgment of the trial court. That his how, the appellants/defendants are now before this court with this second appeal.

2. The case of the plaintiff in brief is as follows:- One Mrs.Saroja W/o.Permal was the absolute owner of 59 cents of land comprised in S.No.11 at Poonthottam Village in Villupuram District. The plaintiff entered into an agreement of sale with her on 17.04.1991 thereby agreeing to purchase the suit property for a total consideration of Rs.50,000/- In order to ascertain whether there was any encumbrance over the property, an application in No.1705/1992 was made seeking encumbrance certificate. After having collected necessary fee for the same, the 1st defendant issued an encumbrance certificate under Certificate No.1710/1992 on 03.11.1992 covering a period of 13 years between 01.01.1980 and 01.11.1992. As per the said Encumbrance Certificate there was no encumbrance on the property in

question. Therefore, the plaintiff purchased the property from Mrs.Saroja. He also entered into possession of the property.

3. While so, the plaintiff came to know subsequently that the Principal Subordinate Judge, Villupuram, in the execution proceedings in E.P.No.21 of 2001 in O.S.No.84 of 1991 had brought the suit property for sale. On verification, the plaintiff came to know that O.S.No.84 of 1991 had been filed by one Periyannan based on a promissory note against Mrs.Saroja and her husband-Mr.Perumal. An order of attachment before judgment was made in the suit on 28.06.1991. But, the above attachment order was not duly entered in the encumbrance certificate though the same was entered in the appropriate register maintained by the 1st defendant. According to the plaintiff, had this attachment over the property been entered in the encumbrance certificate he would not have purchased the property. In order to get rid off the above problem, the plaintiff had to satisfy the decree in O.S.No.84 of 1991 and get the property released from attachment. Thus, over and above the sale consideration which the plaintiff had already paid, on account of the above execution proceedings, he had to pay a sum of Rs.1,92,050/-. According to the plaintiff, while issuing the encumbrance, without making proper search the 1st defendant had issued the encumbrance certificate showing no encumbrance over the property. But for the said certificate, according to him, he would not have suffered loss to the tune of Rs.1,92,050/- as he would not have purchased the said property. Thus, the loss caused to the plaintiff in this regard is on account of the negligence on the part of the 1st defendant and , therefore, he is liable to pay compensation to the tune of Rs.1,92,050/- with interest.

4. The case of the defendants before the trial court was that the plaintiff never applied for an encumbrance certificate. The application for encumbrance certificate was indeed made under Application No.1705/1992 by one Mr.Subburaman, Son of Thambusamy. Mr.Subburaman was neither the agent of the plaintiff nor a party to the above transaction. There was no privity of contract at all between the plaintiff and the defendants. In order words, the encumbrance certificate was not issued to the plaintiff and therefore, the defendants are not at all liable to pay any amount as compensation. It is the further case of the defendants that it is not as though the plaintiff was not aware of the above attachment. As a matter of fact, the plaintiff knew very well that there was an order of attachment and with that knowledge, he has purchased the property. Thus, the alleged loss said to have been caused to the plaintiff is not on account of the defective encumbrance certificate

issued to Mr.Subburaman. Thus, according to the defendants, the suit is liable to be dismissed.

5. Based on the above pleadings, the trial court framed appropriate issues. On the side of plaintiff, he was examined as P.W.1 and Exs.A.1 to A.27 were marked. On the side of the defendants, one Mr.Anjanakumar was examined as D.W.1 and no document was marked. Having considered the above, the trial court by decree and Judgment dated 06.07.2011 decreed the suit directing the defendants to pay a sum of Rs.1,92,050/- with interest @ 6% p.a. On appeal, the appellate court also confirmed the same. That is how, the defendants are now before this court.

6. In this second appeal, at the time of its admission, a learned Judge of this Court has framed the following substantial questions of law:-

- [1] Whether the suit is barred by limitation?
- [2] Whether the suit is liable to be rejected on the ground of misjoinder of party?
- [3] Whether the appellant is entitled to pay compensation when Section 86 of The Registration Act, 1908 in force?

7. During the course of hearing, it turned out that the following questions of law are also involved and accordingly, this court framed the following substantial questions as additional substantial questions of law:-

- [1] In the absence of a privity of contract or any jural relationship between the appellants and the respondent, whether the courts below were right in decreeing the suit as prayed for?
- [2] Whether the courts below were right in decreeing the suit by ignoring the evidence that the respondent was aware of the attachment order in O.S.No.84 of 1991 even before the purchase made by him?
- [3] Whether the courts below were right in holding that the alleged loss said to have been caused to the respondent is traceable to the defective encumbrance certificate issued by the 1st appellant?
- [4] Whether the statement in the encumbrance certificate that the appellants shall not be held responsible for any omission in the encumbrance certificate shall be binding on the respondent and

whether the same shall deprive the respondent of compensation?

8. The learned counsel on either side argued the matter at length in respect of both questions of law originally framed and the additional substantial questions of law now framed. I have considered them all carefully.

9. The appellants 1 to 3 are all statutory authorities created under The Registration Act, 1908 and they have been vested with specified powers to exercise. Similarly, the statute imposes certain duties also upon them, of which, some are mandatory and some are directory. Chapter XI of The Registration Act, 1908 deals with such powers and duties. Section 51 of the Registration Act, mandates that in all registration offices, Book Nos.1 to 4 viz., Book 1, "Registration of non-testamentary documents relating to immovable property"; Book 2, "Record of reasons for refusal to register"; Book 3, "Register of wills and authorities to adopt"; and Book 4, "Miscellaneous Register shall be kept and in the Offices of Registrars, Book 5, "Register of deposits of Wills shall be kept. This provision is undoubtedly mandatory. Section 54 of The Registration Act, mandates that in every office, where books mentioned in Section 51 are kept, there shall be prepared current indexes of the contents of such books and every entry in such indexes shall be made, so far as practicable, immediately after the registering officer has filed a true copy of, or a memorandum of the document to which it relates. Section 57 of the Act deals with the inspection of certain books and indexes and certified copies of entries. It reads as follows:-

57. Registering officers to allow inspection of certain books and indexes, and to give certified copies of entries

(1) Subject to the previous payment of the fees payable in that behalf, the Book Nos. 1 and 2 and the Indexes relating to Book No. 1 shall be at all times open to inspection by any person applying to inspect the same; and, subject to the provisions of section 62, copies of entries in such books shall be given to all persons applying for such copies.

(2) Subject to the same provisions, copies of entries in Book No.3 and in the Index relating thereto shall be given to the persons executing the documents to which such entries relate, or to their agents, and after the death of the executants (but not before) to any person applying for such copies.

(3) Subject to the same provisions, copies of entries in Book No.4 and in the Index relating thereto shall be given to any person executing or claiming under the documents to which such entries respectively refer, or to his agent or representative.

(4) The requisite search under the section for entries in Book Nos. 3 and 4 shall be made only by the registering officer.

(5) All copies given under this section shall be signed and sealed by the registering officer, and shall be admissible for the purpose of proving the contents of the original documents."

10. The Inspector General of Registration, Government of Tamil Nadu, with the approval of the State Government, has issued Rules, known as "The Registration Rules". Chapter XIX of the Registration Rules relates to searches. This chapter contains exhaustive procedure relating to issuance of certified copies of entries. These certificates are known in common parlance as "The Encumbrance Certificates". A close reading of all the above provisions would go to show that though it is in practice, that in the encumbrance certificates issued by the Registering Officers there is a foot-note stating that the issuing authority shall not be held liable for any omission in the encumbrance certificate, the same does not have any statutory backing.

11. The learned Additional Advocate General is unable to lay his finger on any particular provision either in The Registration Act or in The Registration Rules which provides for such a foot-note in the encumbrance certificates. The learned Additional Advocate General refers to Section 86 of the Registration Act in an attempt to succeed in his argument that such power flows from Section 86 of The Registration Act. The said provision reads as follows:-

"86. Registering Officer not liable for thing bonafide done or refused in his official capacity.- No registering officer shall be liable to any suit, claim or demand by reason of anything in good faith done or refused in his official capacity.

12. In my considered view, this provision relates to the protection to a registering officer in respect of anything done or refused to be done in his official capacity in good faith. Whether a particular act was done or refused on account good faith or not is

always a question of fact which needs to be resolved only by a court of law. Under the umbrella of Section 86 of The Registration Act, the registering officer cannot claim absolute protection notwithstanding the fact that the omission made by him in the encumbrance certificate was either deliberate or due to negligence. Therefore, I hold that Section 86 of The Registration act is not a complete bar for filing a suit for compensation against the registering officer for anything done or refused to be done by him in his official capacity. He can escape from his liability if only he is able to prove good faith on his part in either doing or refusing to do a particular act in his official capacity [vide S.P.Goel v. Collector of Stamps, Delhi, AIR 1996 SC 839].

13. In this regard we may refer to a Judgment of this court in R.Ravichandran v. The State of Tamil Nadu, 2002 - 2 - L.W. 590. That was a case where a writ petition was filed against the officers of the Registration Department claiming compensation to compensate the loss caused due to defective encumbrance certificate issued. The defence taken by the officials was that the said omission was due to over-sight and the same was not deliberate and motivated. It was also contended that there was no sufficient strength of staff as a result of which the staff members were burdened with heavy workload and the department has not provided sufficient strength. It was also contended that the instructions contained in the encumbrance certificate is also not out of context because it has been clearly stated at the bottom of the certificate that the department is not responsible for any error or omission found in the encumbrance certificate. Therefore, according to the officials of the Registration Department, though it might be true that believing the encumbrance certificate the writ petitioner therein had purchased the property and had incurred loss, the officials cannot be held liable to pay any amount as compensation on that score. While considering the said plea, after having referred to a plenty of judgments of the Hon'ble Supreme Court like, Kasturilal Ralia Ram Jain v. State of U.P., AIR 1965, SC 1039; Common Cause Society v. Union of India, (1999) 6 SCC 667; N.Nagendra Rao v. State of Andhra Pradesh, AIR 1994 SC 2663; Lucknow Development Authority v. M.K.Gupta, AIR 1994 SC 787; Rajkot Municipality v. M.J.Nakuk, 1997 (9) SCC 552 and many more judgments, this court held in para 49 as follows:-

"49. It is well settled by now that court enforces the performance of statutory duty of public bodies/statutory authorities as an obligation to citizens who have a legal right to demand compliance by such statutory authorities with its duties to observe statutory rights

alone. In order to sustain an action for damages for breach of statutory duties the individual has to establish a breach of statutory obligation. Such statutory obligation should be established that it is intended to be a ground of civil liability to the petitioner."

14. In paragraph 50 of the said Judgment, this court has held as follows:-

"50. The petitioner also should establish an injury or damage of a kind against which the statute was designed to give protection."

15. Finally this court in paragraph 64 of the Judgment has held as follows:-

"64. In the present case, it cannot be stated that the omission is a bonafide one. If there had been some attempt to verify the entries by two persons independently as prescribed by the statutory rule referred to above this omission could have been easily avoided as the entries are indexed immediately after registration. It is not as if the certificate has been applied for immediately after the registration of sale in favour of the 6th respondent. For this negligence, this court with a view to render substantial and ultimate justice awards a compensation of rs.60,000/- which will be fair and reasonable and the same will result in rendition of justice and also check omissions on the part of the respondents 1 to 4 or their subordinates, identically placed."

16. In view of the above Judgment of this court, no more adjudication is required on the above legal issues raised in this second appeal as this court has categorically held that if any encumbrance certificate is issued without making proper entries of all encumbrances by making a thorough search in the index books on account of negligence on the part of the officials, the State is liable to pay compensation provided the claimant is able to establish injury or damage to him on account of such defective certificate.

17. Applying the said provision to the facts of the present case, if we look into the evidence available, it is crystal clear that the encumbrance certificate issued is undoubtedly defective as

it does not reflect the order of attachment passed by the court in O.S.No.84 of 1991. It is also in evidence that the respondent herein had to get the attachment raised by paying a sum of Rs.1,92,050/- But the question is whether the loss was caused on account of the defective encumbrance certificate. In this regard, my answer is an emphatic "No". The reasons are many. As I have already pointed out , it is admitted in the evidence of the respondent herein that even before he purchased the property in question, he was aware of the attachment order from the civil court. Since he had knowledge of the same, he could have avoided purchasing the property. But, even after having come to know of the attachment he has purchased the property, which means he has invited the loss. If it is proved that the loss or damage resulted is on account of his act and not on account of the act of the defendant, in other words, if there is no interlink between the act of the defendant and the loss caused to the plaintiff, the plaintiff is not entitled for damages from the defendant. This vital aspect has been overlooked by the trial court as well as the first appellate court. In the instant case, though the encumbrance certificate in question was defective, as it did not reflect the order of attachment of the court and though the respondent had paid the entire amount to satisfy the decree under execution to get the attachment raised and thus, he has suffered loss, he is not entitled for compensation inasmuch as the loss was not on account of the defective encumbrance certificate, but, it was on account of his own act. So far as the question of limitation is concerned, even according to the plaint averments, the respondent came to know of the attachment of property and that the property had been brought for sale even on 10.04.2003, but, the suit was filed on 23.03.2009. Thus, the claim is also barred by limitation. Accordingly, the substantial questions of law framed and the additional substantial questions of law framed subsequently are answered against the respondent and thus, this appeal deserves to be allowed.

18. Before parting with this case, let me say the following. In this State, it is not uncommon that encumbrance certificates are issued by the authorities under The Registration Act, 1908 defectively without making a thorough search in the appropriate index books. It is also in practice that the officers take a defence that neither they personally nor the department vicariously are/is liable in any manner to pay compensation. Despite the Judgment of this court in R.Ravichandran's case cited supra, there appears to have been no substantial improvement made by the Registration Department to issue flawless certificates. As a result, there are innumerable complaints made to the police day in and day out alleging

land grabbing by parties based on such defective encumbrance certificates. There is also a public cry that the officials at times, deliberately issue such defective encumbrance certificates with a view to help the land grabbers. Ultimately when their action is questioned, they try to hide under the umbrella of Section 86 of The Registration Act, 1908 or by relying on the foot-note in the encumbrance certificate to the effect that the department is not liable for any omission in the encumbrance certificate.

19. As a matter of fact, when I heard the original petition in CrI.O.P.No.1747 of 2014 filed by one Mr.V.S.Ravi against the Sub Inspector of Police, Anti Land Grabbing Special Cell, Krishnagiri District, seeking a direction to the police to register a case for cheating, forgery , etc., it was brought to to my notice that the entire transaction was based on an encumbrance certificate which was defective and thus, prima facie there was no offence committed.

20. Mr.P.H.Arvinth Pandian, the learned Additional Advocate General, who appeared for the State, during the hearing of CrI.O.P.No.1747 of 2014, after having taken time from this court to get instructions from the Inspector General of Registration, produced a letter of the Inspector General of Registration dated 27.04.2014 wherein the Inspector General stated as follows:-

"Purchaser/ mortgagee with local knowledge can do this filtration without any mistake. If survey number is divided into many sub divisions then entering the survey number throws lot of transaction details and it is difficult for the staff of the registration Department to find relevant entries within the limited time available. But purchaser/mortgagee having time and interest can find relevant entries very easily.

Currently, all Sub-Registrar offices of the department have been provided with net work connectivity. As a result of which index ii data relating to transactions registered in book I are being uploaded on a day to day basis in a centralized data server maintained by M/s. ELCOT. Presently index ii data proposed to digitalize index ii data from 1975 for which actions are being taken for speedy implementation.

But it has been noted that the demand for encumbrance certificates etc., has increased

multifold for property verification and getting loan from banks etc., Also, frauds relating to properties are on increase. In order to reduce the crowd and work load in the Sub-Registrar offices and also to facilitate the property owners to check the status of their property from anywhere in the world, Department proposes to allow facility for "Public viewing of the EC entries" from the website of the department. This will ensure ease and transparency in services to Public. In addition to this, the existing system of issuing certified copies of the EC on payment of charges will continue.

Enabling online free viewing of index ii (EC) details may result in some revenue reduction, but benefits accrued to Public will be enormous. At the same time, it would reduce work load in the Sub-Registrar offices substantially and would also lead to reduction in number of allegations leveled against the department officials. It would also arrest lot of frauds as the property owners can view status of their property frequently on the web site.

The Government sanctioned Rs.58.33 lakhs to prepare software, purchase hardware etc. For this project and it is nearing to completion. Shortly the scheme will be launched."

21. The learned Additional Advocate General further submitted that if the system which was sought to be introduced is put in place, it may reduce the complaints relating to the non reflection of encumbrances in the encumbrance certificates issued by the department.

22. While disposing of the said petition in paragraph 10, I made the following observations and issued certain directions which are as follows:-

"10. As already pointed out and rightly pointed out by the learned counsel for the petitioner that the encumbrance certificates issued by the department in many cases which come up before this Court do not reflect correct details of the encumbrances made in respect of the property concerned. Therefore, very often it is contended before this Court by the parties that they act on such encumbrance certificate and therefore, they are

innocent. Though the Inspector General of Registration in his letter cited supra has expressed some practical difficulties in issuing the encumbrance certificates without any fault, I find it difficult to agree with him. In this modern world which is dominated by computer where the information technology has reached its height, I do not believe that it would not be possible for the registration department to evolve a comprehensive system by which the encumbrance certificates shall be issued flawless reflecting all the encumbrances relating to the property concerned. When number of cases are coming up before this Court relating to forgery etc., and such cases are showing increase, simultaneously pleas are also taken that the accused are innocent purchases. In my considered view, unless the registration department evolves a comprehensive system thereby making the encumbrance certificate issued by the department as authenticated document relating to all the encumbrances, the increase in number of these kinds of cases relating to properties cannot be curtailed. These observations are not with a view to find fault with any one including the Registration Department, but from the letter produced by the learned Additional Advocate General and the explanation offered by him in a very eloquent manner, I find that the Registration Department is actually at the issue and the department is making all efforts to solve the above problem. I am only hopeful that the IG of registration will bestow his attention, seek the help of information technologists and evolve a comprehensive system so as to curtail the menace of forgery and fraud relating to properties."

23. In the present second appeal during the course of hearing this court wanted to know from the Government as to whether the assurance given to this court by the Inspector General of Registration in his letter dated 27.02.2014 referred to above has been complied with. Mr.P.H.Arvinth Pandian, the learned Additional Advocate General, has produced an order passed by the Government in G.O.Ms.90, Commercial Taxes and Registration (32) Department, dated 09.12.2014 which reads as follows:-

Commercial Taxes and Registration (J2) Department

G.O.Ms.No.90

Dated 09/12/2014

Read: From the Inspector General of Registration, Letter No.12649/C1/2013, dated 09.07.2013 and 24.10.2013

ORDER:

Hon'ble Chief Minister has made announcement under Rule 110 of the Legislative Assembly Rules, on the floor of the Legislative Assembly on 13.05.2013, among others, that considering the increase in the number of applications received from the public requesting for encumbrance certificates and in order to reduce the work load of the staff working in the Sub-Registrar Offices, facility to view and take copies of encumbrance details through online will be introduced.

2. Sub-section of Section 57 of the Registration Act, 1908 [Central Act XVI of 1908) provides that 'Subject to the previous payment of the fees payable in that behalf, the Books Nos.1 and 2 and the Indexes relating to Book No.1 shall be at all times open to inspection by any person applying to inspect the same and subject to the provisions of Section 62, copies entries in such books shall be given to all persons applying for such copies. The indexes relating to Book No.1 mentioned in the above section denotes the encumbrance details of properties. Hence, statutorily, the fee prescribed for searching and obtaining the encumbrance certificate has to be paid upfront and in order to allow the public to view the encumbrance details and take copy of the same, necessary orders granting exemption from the payment of fees has to be issued. Further, the Inspector General of Registration, in his letter read above, has sent proposals to enhance the fees prescribed for the issue of encumbrance certificates as follows:-

WEB COPY

Sl.No	Description	Current Rate Rs.	Proposed Rate Rs.
1.	For the first year in the books of which search is made	15.00	30.00
2.	For every other year in the books of which search is continued	5.00	10.00
3.	Application fee	1.00	1.00
4.	Computer fee [For computerized period]	100.00	100.00

3. On examining the issue, the Government have decided to grant exemption from the payment of the prescribed fees for viewing the encumbrance details online and taking their print outs and also for enhancing the fees for the issue of encumbrance certificates. Accordingly the Government direct that the notifications appended to this order will be published in an extraordinary issue of the Tamil Nadu Government Gazette, dated 10/12/2014. The works Manager, Government Central Press is requested to send 100 copies to the Government and 1000 copies to the Inspector General of Registration of the gazette in which the notifications are published.

[By Order of the Governor]
S.K.PRABAKAR

PRINCIPAL SECRETARY TO GOVERNMENT

APPENDIX
NOTIFICATION-I

In exercise of the powers conferred by section 78-A of the Registration Act, 1908 [Central Act XVI of 1908] , as the Governor of Tamil Nadu is of the opinion that it is necessary in public interest so to do,

hereby remits the fees payable under Article 13 of the Table of Fees prepared under the said act when a search is made and print out is take through online.

2. This Notification shall be deemed to have come into force on the 11th June 2014.

S.K.PRABAKAR

Principal Secretary to Government

NOTIFICATION -II

Under Section 78 of the Registration Act, 1908, [Central Act XVI of 1908], the Government of Tamil Nadu hereby makes the following amendment to the Table of Fees published with the erstwhile Judicial Department Notification No.177, dated the 30th March 1909 at Pages 316 to 319 of Part I of the Fort St. George Gazette, dated the 30th March 1909, as subsequently amended:-

AMENDMENTS

In the said Table of Fees, in Article 13, in clause (2) and in sub-clause (c) of the proviso to said clause (2) , for the expression, "General search for or inspection of any number of entries or documents relating to one and the same property, or executed by or in favour of one and the same individual-

		Rs. P.
For the first year in the books :	:	15.00
of which search is made		
For every other year in the :	:	5.00
books of which search is		
continued		
the following expression shall be substituted, namely:-		
"General search for or inspection of any number of entries or documents relating to one survey number -		
		Rs. P.

For the first year in the books of which search is made :	30.00
For every other year in the books of which search is continued :	10.00".
	S.K.PRABAKAR PRINCIPAL SECRETARY TO GOVERNMENT

24. Referring to the same, the learned Additional Advocate General would submit that since the encumbrance details are very much available for public view in the official website, the instances of complaints of defective encumbrance certificates will be minimized. The said statement made by the learned Additional Advocate General deserves appreciation. However, this court finds it difficult to be satisfied with the above statement for the simple reason that neither the statute nor The Registration Rules have been amended so as to make the printouts from the official website admissible as primary evidence in the courts of law. The provisions relating to issuance of encumbrance certificates on payment of necessary fee still holds good as per the statute as well as the rules. The person who intend to enter into any transaction relating to immovable property would only rely on the encumbrance certificate issued by the department of registration under the Act. Though the above steps taken by the Government are in the right direction, I am of the view, in order to enhance the faith of the people in the department, the department should ensure furnishing of foolproof, flawless encumbrance certificates. No more can we afford to leave the people to view the encumbrance certificates with suspicion. If a document issued by the Government department could not be believed fully, alas, the people will be left only in the lurch and the result will be unwholesome. I am only hopeful that the Government, to avoid civil litigations and criminal prosecutions which emanate out of the defective encumbrance certificates, shall act swiftly to find out the ways and means with the use of information technology to ensure that encumbrances certificates issued are not defective.

25. Now turning to the second appeal, as I have already concluded it deserves to be allowed.

26. In the result, this second appeal is allowed; the decree and Judgment dated 06.07.2011 made in O.S.No.50 of 2009 on the file of the learned Principal Subordinate Judge, Villupuram and confirmed

by the learned Principal District Judge, Villupuram, by decree and judgement dated 03.12.2013 made in A.S.No.24 of 2012, are hereby set aside. Considering the facts and circumstances of the case, both parties shall bear their respective costs. Consequently, connected MP is closed.

Sd/-
Deputy Registrar(J)

//True Copy//

Sub Assistant Registrar

kmk

To

1.The Principal District Judge,
Villupuram.

2.The Principal Subordinate Judge,
Villupuram.

Copy to

The Section Officer,
V.R.Section, High Court,
Madras.

1 CC to Mr.S.Parthasarathy, Advocate SR.No. 13365

1 CC to the Spl. Government Pleader (CS), SR.No. 13541

सत्यमेव जयते

Second Appeal No.435 of 2014

KSJ (CO)
PSI (01.04.2015)

WEB COPY