

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 05.08.2014

DATE OF DECISION : 18.02.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

S.A.No.694 of 2009

Mrs.R.Usha .. Appellant

-vs-

1. A.C.Sarangan

2. The Member Secretary

Chennai Metropolitan Development Authority

8, Gandhi Irwin Road, Egmore

Chennai 600 008

.. Respondents

Memorandum of Grounds of Second Appeal under Section 100 of the Civil Procedure Code, against the judgment and decree dated 13.04.2009 passed in A.S.No.314 of 2008 on the file of the learned IV Additional Judge, City Civil Court, Chennai, confirming the judgment and decree dated 22.04.2008 passed in O.S.No.1981 of 2003 on the file of the learned III Assistant Judge, City Civil Court, Chennai.

For Appellant :: Mr.B.Lenin for M/s Lenin
& Bhagya

For Respondents :: Mr.G.Jeremiah for
Mr.P.Chandrasekaran for R1
Mr.C.Johnson for R2

JUDGMENT

The appellant being plaintiff, has brought this second appeal challenging the concurrent findings of both the Courts below. For convenience, the parties will be hereinafter referred to as "the plaintiff", the "first defendant" and the "second defendant" in this judgment.

2. The facts in brief leading to the filing of the second appeal are as follows. The first defendant was allotted Shop No.B-35, Type C-1, Ground Floor, Koyambedu Wholesale Flower Market Complex, Chennai by the Chennai Metropolitan Development Authority, the second defendant on 10.6.93. As the plaintiff was also a wholesale flower vendor, in the year 1994, the first defendant joined the plaintiff as a partner in her business and agreed to carry on the business from his allotted shop at Shop No.B-35, Type C-1, Koyambedu Wholesale Flower Market Complex. The first defendant also informed the plaintiff that he was willing to sell the shop to her if she was prepared to pay all the instalment dues. In view of that, the plaintiff paid the initial instalment amounts for the suit shop to the second defendant. Thereafter, the first defendant resigned from partnership business and asked the plaintiff to carry on the business from the suit shop. However, the second defendant informed the plaintiff that the sale deed would be given only to the allottee. Therefore, the plaintiff did not pay the instalment dues for the suit shop to the second

defendant and the first defendant also did not pay the instalment dues. Due to the non-payment of instalment dues, the allotment made in favour of the first defendant was cancelled by the second defendant before 13.5.94. Upon enquiry by the plaintiff and the first defendant with the second defendant, on their advice, the first defendant submitted a letter dated 2.8.96 intimating the second defendant that he had already sold the shop to the plaintiff, who had paid all the dues and who would pay all the further dues, with a request to issue the sale deed for the suit shop in favour of the plaintiff. In the meanwhile, the first defendant executed an agreement of sale, Ex.A7 selling the suit shop to the plaintiff and also a deed of power of attorney, Ex.A3 in favour of the plaintiff's husband, for lawfully transferring the title of the shop in the name of the plaintiff, after receiving Rs.60,000/- as the sale consideration. On receipt of the letter of the first defendant dated 2.8.96, the second defendant issued a reply dated 10.8.96 intimating the first defendant that his request for reallocation in favour of the plaintiff would be considered if a payment of Rs.1,00,000/- was made. In view of that, the plaintiff paid the said sum as well and the second defendant allowed the plaintiff to occupy the suit shop and to carry on her business by issuing the licence, registration certificate etc. Since then the plaintiff has been making payments of all the instalment dues for the suit shop and the second defendant also received all the instalment and other dues from the plaintiff and that the second defendant also addressed the plaintiff as the allottee of the suit shop in the subsequent demand notices.

3. Nonetheless, in the year 2003, when the plaintiff went to pay the final instalment for the suit shop, the first defendant, with an intention to cheat, had made objections with the second defendant for issuing the sale deed to the plaintiff. The first defendant also unlawfully and unilaterally cancelled the irrevocable power given in favour of the plaintiff's husband that was executed by him for executing the sale deed for the shop in favour of the plaintiff. Although the second defendant assured and reallocated the suit shop in favour of the plaintiff, certain officers of the second defendant exclusively suppressed the cancellation of the allotment order made against the first defendant all through the suit. The second defendant also did not explain as to why they issued the licence and registration certificate in the name of the plaintiff and equally failed to explain as to why they addressed the plaintiff as the allottee in their demand notices. In view of the dispute, when the plaintiff filed the suit for permanent injunction restraining the second defendant and their agents from issuing the sale deed in favour of the first defendant and also restraining the first defendant from in any way disturbing the peaceful possession, occupancy and enjoyment of the suit shop, without considering the evidence produced by the plaintiff, the trial Court dismissed the suit holding that the plaintiff has failed to prove her possession of the suit shop among other things.

4. Aggrieved by the same, the plaintiff filed an appeal in A.S.No.314 of 2008 before the learned IV Additional Judge, City Civil Court, Chennai. Although

the first appellate Court has rightly held that the plaintiff had paid all the instalment dues for the suit shop to the second defendant, still erroneously, did not consider Exs.A20 to A31 through which the second defendant received the instalment and other dues from the plaintiff for the suit shop. When Ex.A11, the letter issued by the second defendant promised to consider the reallocation in favour of the plaintiff and that Ex.A18, registration certificate and Ex.A19, licence through which the second defendant acknowledged the possession and enjoyment of the suit shop by the plaintiff, all these material documents were ignored. The first appellate Court also did not consider the fact that neither of the defendants had given any explanation for the second defendant having issued the licence and registration certificate in respect of the suit shop by receiving all instalment and other dues from the plaintiff. When a specific plea was taken before the first appellate Court stating that in spite of the cancellation of allotment made in favour of the first defendant and the subsequent assurance given by the second defendant for considering the request of the first defendant to reallocate the shop in favour of the plaintiff, no issue with regard to the said important factual aspect was framed by the trial Court. Therefore, the plaintiff was constrained to file an application before the first appellate Court under Order 41, Rule 25 of the Civil Procedure Code praying the appellate Court to frame an issue as to whether the facts as stated in paragraph 10 of the plaint and admitted by the defendants are true and whether the second defendant has to act in accordance with the promise made through the letter dated 10.8.96 and

their subsequent conducts and thereupon to refer the same to the trial Court for trying these issues together with the findings thereon before the first appellate Court within a reasonable time. But the first appellate Court did not pass any order in that application and the same was not even numbered on the reasoning that the appellate Court can decide the issue from the available records. However, the first appellate Court did not discuss about the cancellation of the allotment order. On this basis, it was further pleaded that both the trial Court and the first appellate Court have not considered any of the evidence. Therefore, the second appeal has been filed.

5. In the light of the above, this Court has framed the following substantial questions of law, while admitting the second appeal:-

"(a) Whether the first appellate Court can discard the petition filed by the appellant under Order 41 Rule 25 without either remanding the suit back to the trial Court for deciding the specific issue of cancellation of the allotment order nor framing an additional issue and give a finding on it?

(b) Whether the first appellate Court, which had rightly given the finding that the appellant is in possession of the shop and had paid all the dues, refuse to protect her lawful possession and enjoyment of the shop, against the unlawful acts of the respondents?

(c) Whether the first appellate Court can reject the

entire suit merely on the letter of allotment, when the allotment made in favour of the first respondent had been cancelled by the second respondent much before 15.5.1994 for non payment of dues and when the allotment order has no further basis or relevancy?

(d) Whether both the Courts can refuse the protection against unlawful dispossession, especially when the appellant had been in possession and enjoyment of the shop, with the consent and authorization of the second respondent, for more than 15 years?"

6. Learned counsel for the appellant/plaintiff questioned the correctness of the findings of the Courts below on the premise that when the plaintiff filed an application before the trial Court for summoning the officials of the second defendant-CMDA to be examined as Court witness with regard to the cancellation of allotment made in favour of the first defendant and the subsequent assurance given by the second defendant for considering the request of the first defendant to reallocate the suit shop in favour of the plaintiff, whether such application can be returned on the ground of maintainability, particularly when the core issue could be resolved by allowing the plaintiff's application. Arguing further, the learned counsel submitted that when an application was filed under Order 41, Rule 25 of the Civil Procedure Code before the first appellate Court praying to frame an issue as to whether the facts as stated in

paragraph 10 of the plaint and admitted by the defendants are true and whether the second defendant has to act in accordance with the promise made through the letter dated 10.8.96 and their subsequent conducts and, if necessary, to refer the same to the trial Court for trying these issues and thereafter to return the evidence together with the findings thereon before the first appellate Court, whether the first appellate Court can refuse to give a direction for ordering the said application and thereby refuse to consider the said application.

7. Opposing the above arguments, the learned counsel for the first respondent/first defendant submitted that since the first defendant being the owner of the suit shop, the request of the plaintiff's husband to run the wholesale flower business as a partnership business was initially accepted by the first defendant, since the plaintiff's shop was situated in the first floor, the front open space was allowed to be used by the plaintiff by the first defendant, which was solely being exploited and misused by her. After sometime, the plaintiff and her husband conspired to grab this shop and also fabricated documents to get the shop allotted in favour of the plaintiff. Only after receiving the legal notice from the plaintiff on 31.1.2003, the first defendant, sensing the evil design of the plaintiff, cancelled the power of attorney given to one Mr.Ravichandran and also gave a reply notice on 5.3.2003. On this basis, the learned counsel for the first defendant questioned the dates of the deed of partnership, dissolution deed, sale agreement, resignation from partnership, sworn affidavit and receipts, on

the premise that they are all forged. Adding further, it was stated that the suit shop was handed over to him in 1996 and till May, 2003 taxes have been paid by the first defendant with the receipts issued in his name. As these aspects have been properly considered by the trial Court and the first appellate Court, he prayed for dismissal of the second appeal.

8. Learned counsel appearing for the second defendant-CMDA also contended that they are not bound by any transaction or agreement between the plaintiff and the first defendant, since it was outside the purview of the CMDA rules and regulations, for, as per the terms and conditions of the allotment order and lease cum sale agreement, the sale deed could be executed only in the name of the allottee and not in any other name and that as per Section 101 of the Tamil Nadu Town and Country Planning Act, the powers and functions of the statutory body like the second defendant cannot be questioned in a civil Court. On this basis, he prayed for dismissal of the second appeal.

9. Heard the learned counsel for parties.

10. It is not in dispute that the plaintiff was allotted Shop No.F/D105, First Floor, Flower Market, Koyambedu and the suit shop bearing Shop No.B-35, Type C-1, Ground Floor, Koyambedu Wholesale Flower Market Complex was also allotted to the first defendant by the second defendant-CMDA and the allotment

order was issued under the lease cum sale agreement. Ex.A1-allotment order shows that the suit shop was allotted to the first defendant on 10.6.93 under the lease cum sale agreement by the second defendant-CMDA subject to the conditions enshrined therein. Clauses 9 and 10 of the allotment order show that the allottee shall not part with possession, alienate, assign or otherwise encumber his rights in the above shop without the written prior approval of the CMDA and that the non-compliance of any of the above conditions would result in cancellation of the allotment and forfeiture of five percent of the total amount paid by the allottee. The above terms and conditions clearly show that the allottee, without the written prior approval of the CMDA, cannot alienate the shop. However, the claim of the plaintiff shows that when the first defendant approached her by saying that he is not able to pay the deposit amount to the second defendant-CMDA, a sale agreement was entered between the plaintiff and the first defendant on 15.8.94 and further more, a premium of Rs.60,000/- was paid to the first defendant under Ex.A6 dated 15.8.94. Equally, under Exs.A20 to A31 receipts, the plaintiff had paid the entire amount due to the allotment order to the second defendant. Only thereafter, the first defendant refused to honour the sale agreement. Therefore, it was claimed that the plaintiff is entitled for the relief as claimed for in the suit.

11. In this background, when the findings of the trial Court and the first appellate Court are perused, it could be seen that the plaintiff, as per the sale

agreement, had paid the instalment dues to the second defendant-CMDA with regard to the suit shop, which are amply proved from Exs.A20 to A31 documents. The first appellate Court has also given a finding on this aspect holding that on a careful perusal and consideration of Exs.A20 to A31 documents, it was amply clear that the plaintiff herself had paid the instalments of the suit shop as evidenced under the said documents. On this score, a finding has been given by both the Courts below that the plea of the first defendant that he had paid the instalments by himself cannot be accepted. That apart, Ex.A6 receipt clearly indicates that the first defendant received a sum of Rs.60,000/- from the plaintiff for relinquishing his ownership over the suit property and that Ex.A7 sale agreement also indicates that the first defendant entered into a sale agreement to sell the suit shop to the plaintiff. After executing the sale agreement, the first defendant has denied the execution of Ex.A6 receipt and Ex.A7 sale agreement by saying that the said documents were forged. On this issue also, the first appellate Court has held that there were absolutely no materials adduced on the side of the first defendant to show and prove that those documents are forged and fabricated. In such circumstances, the first appellate Court has come to the conclusion on the basis of Exs.A20 to A31 that the receipts are standing in the name of the plaintiff and that the sale agreement and the receipts executed by the first defendant are genuine. That apart, it was also held that Ex.A18 registration certificate issued by the Chief Executive Officer of Koyambedu Wholesale Market and Ex.A19 licence issued by the authority also

clearly indicate that both the above documents stand only in the name of the plaintiff. After rendering such a finding, it is not known why the first appellate Court refused to consider the application filed by the plaintiff requesting for summoning of the officials of the second defendant-CMDA to be examined as Court witness. Sadly, the said application also was returned on the ground of maintainability. But the first appellate Court has given a narrow finding that the sale agreement between the plaintiff and the first defendant and the payments made by the plaintiff on behalf of the first defendant will not transfer the allotment order in the name of the plaintiff, since the contractual relationship between the first defendant and the second defendant is based on Ex.A1 allotment order. Adding further, the first appellate Court held that since the second defendant never granted any written permission with regard to the claim of the plaintiff, even though the plaintiff paid the amount under Exs.A20 to A31 receipts in favour of the second defendant, it would not change the contractual relationship between the first defendant and the second defendant. When sufficient evidence was produced by the plaintiff, namely, Exs.A20 to A31 receipts showing the payment of instalments in respect of the suit shop by the plaintiff on behalf of the first defendant to the second defendant, on the basis of Ex.A18 registration certificate issued by the Chief Executive Officer of Koyambedu Wholesale Market and Ex.A19 licence issued by the authority with respect to the suit shop, that too in the name of the plaintiff, the findings given by both the Courts below that the sale agreement and other transactions

between the plaintiff and the first defendant is in violation of the terms and conditions of the allotment order, is not acceptable. Therefore, in all fairness, the first appellate Court ought not to have refused to consider the application filed by the plaintiff under Order 41, Rule 25 of the Civil Procedure Code. Accordingly, the first substantial question of law is answered in favour of the plaintiff.

12. Coming to the second substantial question of law that when the first appellate Court has given a finding in favour of the plaintiff that she is in possession of the shop and had paid all the dues, against the unlawful acts of the defendants, is concerned, it is to be seen that Ex.A1 allotment order stands in the name of the first defendant. When the plaintiff is the allottee of the Shop No.F/D105, First Floor, Flower Market, Koyambedu and the first defendant is the allottee of Shop No.B-35, Type C-1, Ground Floor, Koyambedu Wholesale Flower Market Complex based on Ex.A1 allotment order dated 10.6.93 by the second defendant subject to certain terms and conditions stated therein and that when the plaintiff and the first defendant entered into a sale agreement that as soon as the title deed was executed by the second defendant-CMDA in favour of the first defendant, it would be transferred in favour of the plaintiff for which a premium of Rs.60,000/- was paid under Ex.A6 dated 15.8.94 and further more as per Exs.A20 to A31 receipts, the plaintiff had paid the entire amount due to the allotment order, it is not in dispute that a clear finding has been given in favour of the plaintiff that as per the sale agreement the plaintiff had paid the

instalments due to the second defendant with regard to the suit shop under Exs.A20 to A31 documents. When a specific finding has been given by the first appellate Court that the plea of the first defendant that he had paid the instalments by himself cannot be accepted, in view of the further document Ex.A6 receipt which manifests the receipt of Rs.60,000/- by the first defendant from the plaintiff for relinquishing his ownership over the suit shop, Ex.A7 sale agreement entered into between the plaintiff and the first defendant to sell the suit shop to the plaintiff ought not to have been discarded. Equally a finding has been given against the second defendant that Ex.A18 registration certificate has been issued by the Chief Executive Officer of Koyambedu Wholesale Market and Ex.A19 licence has been issued by the authority in the name of the plaintiff. When a finding has been rendered in favour of the plaintiff and against both the defendants, the finding of the Courts below that the second defendant was not a party to the sale agreement and hence the second defendant was not bound to execute the sale deed in favour of the first defendant, in my considered view, cannot be sustained. For the sake of repetition, it may be mentioned that when sufficient evidence produced by the plaintiff clearly indicate the payment of instalments due on behalf of the first defendant to the suit shop paid to the second defendant under Exs.A20 to A31 documents and that Ex.A6 receipt indicates the receipt of Rs.60,000/- by the first defendant from the plaintiff for relinquishing his ownership over the suit property followed by the registration certificate Ex.A18 issued by the Chief Executive Officer of Koyambedu Wholesale

Market and Ex.A19 licence issued by the authority clearly show that the second defendant was a party to the sale agreement, the findings given by the Courts below that the second defendant was not a party to the sale agreement is absolutely erroneous. Therefore, the plaintiff is entitled to the decree for permanent injunction restraining the second defendant from issuing the sale deed in favour of the first defendant and also not to disturb his peaceful possession and enjoyment of the suit shop. Accordingly, the second substantial question of law is also answered in favour of the plaintiff.

13. Coming to the third substantial question of law as to whether the first appellate Court can reject the entire suit merely on the letter of allotment issued in favour of the first defendant, when the same had been cancelled by the second defendant before 15.5.94 for non payment of the dues, the learned counsel for the first defendant submitted that when the plaintiff asked for the relief based on Ex.A1 dated 10.6.93 original allotment order and other receipts, namely, Exs.A20 to A31 documents indicating the payment of instalments of the suit shop payable by the first defendant to the second defendant along with Ex.A6 receipt showing the receipt of Rs.60,000/- by the first defendant from the plaintiff for relinquishing his ownership over the suit property, the finding given by the Courts below that a valid sale agreement cannot be executed by the plaintiff and the first defendant as on 15.8.94, since as on 15.8.94 the first defendant was not the owner of the shop, is absolutely erroneous, for the valid

reason that admittedly Ex.A18 registration certificate dated 15.7.98 issued by the Chief Executive Officer of Koyambedu Wholesale Market and Ex.A19 licence issued by the authority in the name of the plaintiff clearly show that both the Chief Executive Officer and the licensing authority have recognised the right of the plaintiff in respect of the suit shop. Secondly, Ex.A6 dated 15.8.94 evidently indicates the receipt of Rs.60,000/- by the first defendant from the plaintiff for relinquishing his ownership over the suit shop. Therefore, the second defendant is bound to recognise the rights of the plaintiff, because the first defendant was no longer recognised as the allottee of the suit shop in the light of the three documents, namely, Ex.A18 registration certificate issued by the Chief Executive Officer of Koyambedu Wholesale Market in favour of the plaintiff, Ex.A19 licence issued by the authority and Ex.A6 original receipt relinquishing the ownership of the first defendant over the suit shop. Therefore, the contentions made by the learned counsel for the first defendant that the second defendant never issued any written permission in favour of the plaintiff with regard to the suit shop to part with the possession by them will not be a ground, is absolutely unacceptable. As highlighted above, when Ex.A18 registration certificate issued by the Chief Executive Officer and Ex.A19 licence issued by the authority in favour of the plaintiff are on record, they are estopped from interfering with the possession of the suit shop by the plaintiff, as she is admittedly in possession of the same. Therefore, the third substantial question of law is also answered in favour of the plaintiff.

14. With regard to the fourth substantial question of law as to whether the Courts below can refuse protection against unlawful dispossession when the plaintiff has been in possession and enjoyment of the same with the consent and authorization of the second defendant for more than 15 years, it was argued by the learned counsel for the plaintiff that since Ex.A2 partnership deed dated 5.8.94 clearly shows that the first defendant formed a partnership with the plaintiff to do wholesale flower business in the name and style of Usha Flower Market and therefore the sale consideration for the suit shop shall be payable by the persons only in the name of the partnership formed along with Ex.A9 letter dated 2.8.96 sent by the first defendant to the second defendant that he had resigned from the said partnership and all instalments had been paid by the plaintiff-Mrs.Usha and that she would pay the balance instalments and maintenance to the second defendant and one another document Ex.A16 dated 20.12.96 indicating handing over and taking over of the suit shop by the plaintiff clearly shows that the first defendant was no longer continuing to enjoy any rights over the suit shop. This could be further fortified by the registration certificate Ex.A18 dated 15.7.98 issued by the Chief Executive Officer of Koyambedu Wholesale Market and the licence Ex.A19 dated 28.7.98 issued by the authority in favour of the plaintiff with regard to the suit shop. Therefore, the Courts below have committed a patent error holding that the second defendant never issued any written permission in favour of the plaintiff from the

first defendant with regard to the suit shop to part with the possession. Yet another mistake also has been committed by the first appellate Court giving a wrong finding against the documents aforementioned holding that no written permission was produced on the side of the plaintiff authorising the transaction between the plaintiff and the first defendant. It is a general rule that the High Court will not ordinarily interfere with the concurrent findings of the Courts below. But it is not an absolute rule, as there are some well-recognised exceptions. In this context, useful reference can be made to the judgment of the Apex Court in the case of **Hero Vinoth (Minor) v. Seshammal, (2006) 5 SCC 545**, wherein the Apex Court has held as follows:-

"(iii) The general rule is that High Court will not interfere with the concurrent findings of the courts below. But it is not an absolute rule. Some of the well-recognised exceptions are where (i) the courts below have ignored material evidence or acted on no evidence; (ii) the courts have drawn wrong inferences from proved facts by applying the law erroneously; or (iii) the courts have wrongly cast the burden of proof. When we refer to "decision based on no evidence", it not only refers to cases where there is a total dearth of evidence, but also refers to any case, where the evidence, taken as a whole, is not reasonably capable of supporting the finding."

15. When the above formulae is applied in the instant case, this Court

could see that the approaches adopted by the trial Court and the first appellate Court are erroneous, inasmuch as they proceeded as though no licence was issued in favour of the plaintiff with regard to the suit shop. As mentioned above, the registration certificate Ex.A18 dated 15.7.98 issued by the Chief Executive Officer of Koyambedu Wholesale Market and the licence Ex.A19 dated 28.7.98 issued by the authority in favour of the plaintiff are clearly supporting the case of the plaintiff. But these crucial documents have been completely ignored and proceeded by the Courts below as though there was no evidence. Therefore, answering the four substantial questions of law in favour of the plaintiff, this Court is of the view that it is its duty and obligation to reverse the error and injustice caused to the plaintiff.

16. Again, while considering the scope of Section 100 of the Civil Procedure Code with regard to interference in a case of concurrent findings, the Apex Court in the case of **Smt.Indira Kaur and others v. Sheo Lal Kapoor, (1988) 2 SCC 488**, has held as follows:-

"In the above judgment, this Court in para 7 held that Article 136 does not expressly forge any fetters on the power of this Court to interfere with the concurrent findings of fact. Though, this power has to be exercised sparingly but if and when the Court is satisfied that grave injustice has been done it is not only the right but also the duty of the Court to

reverse the error and the injustice and to upset the finding notwithstanding the fact that it has been affirmed earlier. This Court also held that it is not the number of times that a finding has been reiterated that matters. What really matters is whether the findings is manifestly unreasonable and unjust one in the context of evidence on record. This judgment squarely applies to the case on hand. In the instant case, the High Court has rightly exercised its right and discharged its duty to reverse the error and removed the injustice done by the Courts below. The High Court is right in exercising its duty, rightly so in interfering with an unreasonable and unjust findings by both the Courts below."

The aforesaid judgment was quoted with approval by the Apex Court in the case of **Ramlal & another v. Phagua & others, 2005-4-L.W.734**. Again the Apex Court in the case of **Easwari v. Parvathi & others, 2014 (4) CTC 583** has also held that there is no absolute ban on the High Court in Second Appeal to interfere with the facts if there is perversity in the decision due to misappreciation of evidence. (useful reference can be had from **Hafazat Hussain v. Abdul Majeed, (2001) 7 SCC 189**).

17. A close reading of the above ratio clearly shows that if and when the High Court is satisfied that grave injustice has been done, it is not only the

obligation but also the duty of the Court to reverse the error and the injustice and upset the finding, notwithstanding the fact that it has been affirmed earlier. On a careful perusal of the materials on record, I am of the considered view that both the Courts below did not appreciate the evidence on record, both oral and documentary. Therefore, the findings and the conclusions reached by both the Courts below cannot be allowed to stand. Hence, they are set aside. Resultantly, the second appeal stands allowed and there will be a decree as prayed for by the plaintiff. Consequently, M.P.Nos.2 to 6 of 2009, 2 of 2010 and 1 of 2012 are closed. However, there is no order as to costs.

Index : yes
Internet : yes

18.02.2015

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To

1. The IV Additional Judge
City Civil Court
Chennai
2. The III Assistant Judge
City Civil Court
Chennai

T.RAJA, J.

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Judgment in
S.A.No.694 of 2009

18.02.2015