BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

CAV ON 21/12/2015
DATED: 01/02/2016

CORAM
THE HONOURABLE **MR.JUSTICE C.S.KARNAN**

A.S.(MD)No.51 of 2015 &
M.P.(MD)Nos.2 of 2015

Ramasubbiah ... Appellant

Vs.

1.State of Tamil Nadu,
Represented by District Collector,
Thoothukudi Distrit,
Thoothukudi.

2.Union of India,
Secretary to the Government,
Salt Department,
Under Department of Commerce and Industry,
New Delhi.

3.The Deputy Salt Commissioner,
26, Haddows Road,
Shastri Bhavan
Chennai - 600 008.

4.The Assistant Salt Commissioner,
80, George Road,
P.O. Box.46,
Thoothukudi. ... Respondents

PRAYER: The above Appeal Suit is filed under Section 96 of C.P.C. against the judgment and decree dated 09.01.2015 made in O.S.No.67 of 2013, on the file of the II Additional District Court, Thoothukudi.

For Appellant : Mr.N.Anandakumar

For Respondents : Mr.R.Velmurugan (for R1)
Government Advocate

Mr.D.Saravanan (for R2 to R4)
Central Government Standing Counsel

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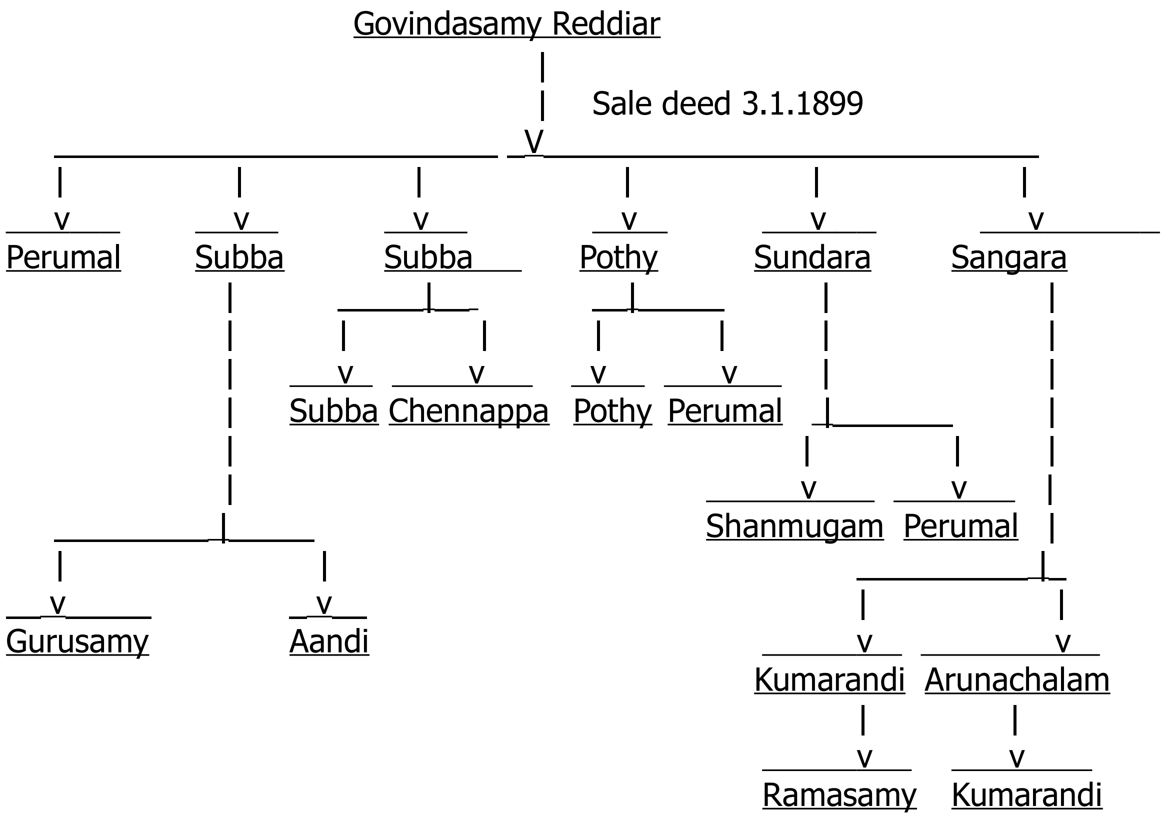
J U D G M E N T

The history of the case are as follows:-

The appellant / plaintiff has filed a Civil Suit in O.S.No.67 of 2013 against the respondents / defendants, stating that the properties more fully described hereunder are situated within the Jurisdiction of this Court. The survey number of the properties is 1/1 and 1/2B. The original survey number before sub division was survey No.1A, B. This property and some other properties originally belonged to one Mr.Govindasamy Reddiar. The said Govindasamy Reddiar by sale deed dated 3.1.1899 under document No.53/1899 sold an extent of 39 acres out of 45.26 acres in the said survey numbers to and in favour of (1)Perumal Reddiar son of Muthuramalinga Reddiar (2)Subba Reddiar son of Andi Reddiar (3)Subba Reddiar son of Chennappa Reddiar (4)Pothy Reddiar son of Andi Reddiar (5)Sundra Reddiar son of Mallappa Reddiar and (6) Sangara Raddiar. The balance of about 6.28 acres also originally belongs to (1)Perumal Reddiar son of Muthuramalinga Reddiar (2) Subba Reddiar son of Andi Reddiar (3)Subba Reddiar son of Chennappa Reddiar (4)Pothy Reddiar son of Andi Reddiar (5) Sundra Reddiar son of Mallappa Reddiar and (6) Sangara Reddiar. Various other properties were also conveyed under this sale deed for valuable consideration. The original Settlement Register stood in the name of 10 persons namely some among the above said persons and the heirs of some among the 6 persons who were dead. The genealogical tree is as follows:-



Even though the sale deed dated 3.1.1899 is for an extent of 39 acres in survey number 1/1 the Settlement Register stood in the name of the 10 persons as already mentioned and they have been in enjoyment and possession of the said extent in their own right.

2. By the sale deed dated 7.1.1931 in document No.24/1931 Chennappa Reddiar son of Subba Reddiar sold his undivided 1/6th share in all the properties purchased by the said 6 persons under the sale deed of the year 1899 including his 1/6th undivided share in survey No.1/2A, survey No.1/1 by the time was subdivided, 50 cents and in survey No.1/C 25 cents, to one Ramasamy Konar son Lakshmana Konar.

3. By the sale deed dated 5.5.1947 document No.761/1947 (1)Gurusamy Reddiar son of Subba Reddiar (2)Pothy Reddiar son of Pothy Reddiar (3)Perumal Reddiar son of Pothy Reddiar (4)Pothy Reddiar son of Chinnappa Reddiar (5)Shanmuga Reddiar son of Sundara Reddiar (6)Perumal son of Sundara Reddiar (7)Kumara Andi Reddiar son of Sanga Reddiar (8)Ramasamy Reddiar son of Kumara Andi Reddiar sold away their undivided 4/6th share in the extent of 6.83 acres in survey No.1/2A. This is due to the fact that the survey No.1/A,B, which is 45 acres 26 cents was subdivided into 1/1, 1/2A, 1/2C. In the process of updating of Revenue Record namely UDR the Survey Number was further subdivided into 1/2A1, 1/2A2, 1/2C1 and 1/2C2. The property in S.No.1/2A before UDR measured 6.83 acres and 1/2C measured 3.01 acres before UDR. It was in these two survey numbers that the sale deed dated 5.5.1994 was executed by Gurusamy Reddiar and others in favour of Arumugasamy Nadar son of Subbaiah Nadar of the 4/6th undivided share.

4. Arumugasamy Nadar by sale deed under document No.3858/1961 sold away 3.01 acres in Survey No.1/2C to (1) Dhanuskodi (2)Muthu Kamatchi, (3)Ponnusamy and (4)Jayaraj and under sale deed No.3859/1973 sold away an extent of 1.09 acres in survey No.1/2A1 to a private limited company by name M/s.Gulf Olyphines Pvt. Ltd. under document No.3859/1973 and an extent of 5.74 acres in survey No.1/2A2 was sold by him under document No.1208/49 in favour of Tuticorin Marine Chemicals. The said Tuticorin Marine Chemicals sold the same to one Mr.Selvam Pillai under document No.1769/72 who in turn sold the same to M/s.Gulf Olyphines Pvt. Ltd. under document No.2468/72.

5. Thus M/s.Gulf Olyphines Pvt. Ltd. became the owner of 1.09 acres in survey No.1/2A1, 5.74 acres in survy No.1/2A2 and 3.01 acres in survey No.1/2C totaling an extent of 9.84 acres (which is originally made up of 6.83+3.01=9.84). Out of this, an extent of 25 cent in survey No.1/2A, 2B and 2.50 acres in survey No.2/C was acquired for Express Highway. The balance of extent of 7.09 acres still stand in the name of M/s.Gulf Olyphines Pvt. Ltd.

and the said company is in possession of the same. The plaintiff also understands that M/s.Gulf Olyphines Pvt. Ltd. has also received compensation for the acquisition of land for Express Highway.

6.The balance extent in the subdivided survey No.1/1, that is the balance after sale in original survey No.1/A,B after subdivision, sale and acquisition is 13.88.5 Hec. (approx. 34.32 acres) and likewise in survey No.1/2B it is 0.45.0 Hec. (approx.1.11 acres). Both put together the property that is left in the hand of the original owner and their descendants is 35 acres 45 cents. This is the remaining extent untouched in the total extent of 45 acres 26 cents as reflected in the Settlement Register. This extent of 35 acres 45 cents includes the area over which the Railway line passes through and its adjacent. The plaintiff understands that the area for railway line will be 2.9705 hect=7.35 acres less this extent is the remaining extent in Survey No.1/1 and 1/2B, that is 28.10 acres lying both north and south of railway line. The said properties are described below in the schedule as item No.1 and 2.

7.These two survey numbers are classified as Uppankarai. Formerly it was punja. It was not known how this classification of punja has been converted into Uppankarai in the UDR and that too without notice to the Plaintiff, who is the owner of the suit properties. The suit property is lying vacant. The change of classification behind the back of the plaintiff is illegal and it will not bind the plaintiff. It is also not known under what authority the change was effected and the original Settlement Register was changed. It is more so, because for the property owned by M/s.Gulf Olyphines Pvt. Ltd., as stated above, patta stands in its name for the extent in their possession after acquisition for Express Highway. While so, for the above said two survey numbers the patta does not stand either in the name of the original ten persons or in the names of the descendants or in the name of the plaintiff. Thus it is inequitable to give patta to a particular person and deny the same to another, in spite of the fact that both of them claim under a common sale deed.

8. After having come to know of the change of classification during May 2012 (as there was no notice for such change) the plaintiff made an application to Tahsildar, Tuticorin to correct the wrong entry. Since there was no response WP(MD) No.7826 of 2012 was filed before this Court for direction and this Court by order dated 02.06.2012 issued a direction. The Tahsildar passed an order dated 18.08.2012 in Na.Ka.A2/6776/12 holding that there is no reason given for effecting change in the patta. The plaintiff preferred appeal to the Revenue Divisional Offier, Tuticorin, who by order dated 07.01.2013 in NaK.A1-379-11 recommended issue of joint patta for 10.91.0 hect in survey No.1/1 and 0.45.0 hect in survey No.1/2B along with the other co-owner of

the properties. He made a recommendation to District Revenue Officer, Tuticorin, who by order dated 27.3.2013 in Na.Ka.D1/37248/11 rejected the recommendation. Against the same a revision was filed before the Commissioner of Land Administration, Chennai, who by order dated 27.08.2013 in letter No.K4/95715/2013 returned the papers stating that the revision would not lie before him. Thus the revision was rejected on technical grounds. Since the change of classification in the Revenue Records without informing or giving prior notice to the plaintiff is unreasonable, illegal, arbitrary and is opposed to the Principles of Natural Justice, a cloud has been cast on the title of the plaintiff. Hence, he has filed this suit for declaration of his title and for consequential reliefs.

9. The plaintiff is the only remaining heir of his grandfather. Father of the plaintiff is Perumal Reddiar and Perumal Reddiar is the son of Sundara Reddiar. Sundara Reddiar has two sons namely Shanmuga Reddiar and Perumal Reddiar. Shanmuga Reddiar died unmarried. The Plaintiff's father and brother are dead. Hence the plaintiff is the only heir of Sundara Reddiar who was one among 6 purchasers in the original sale deed of 1899. Further, there has been various alienations by several descendants of the other 5 original purchasers of various properties which were the subject matter of the original sale deed of the year 1899. There has been a partition long back among the heirs of the original purchasers and after such partition the descendants have made alienation of these properties which fell to their respective share. Plaintiff's predecessor was given the remaining properties in survey No.1/1 and 1/2B and 348. Thus the plaintiff is the only person who is entitled to the suit properties. The foregoing fact would prove that the original purchase was subsequently dealt with by the descendants of the 6 original purchasers.

10. The plaintiff learnt that the defendants 2 to 4 without any semblance of right has been objecting to the grant of patta to anyone. It also transpires that the fourth defendant has intimated to the first Defendant by letter dated 23.12.2010 that no patta should be granted for survey No.1/1 to any private individual as the Salt Department is in possession of documents to show that the said Department is the owner of the property. The land in survey No.1/1 was neither taken over nor acquired for Tuticorin Harbour Project at any point of time. It is neither a forest land nor does it belong to the Salt Department. The records obtained by the plaintiff under Right to Information Act would undoubtedly show that the land has never been taken over by Defendants 2 to 4 at any time. Till today the land is lying vacant. There are no salt pans, nor is it Uppankarai. Defendants 2 to 4 have no right to lease out the property to any one, nor has it done so. The suit property is neither in the list of properties belonging to the Department nor the subject matter of

any notification by the Department. Even though the Department has no right, it is added as a party defendant to have effective adjudication. The property in question was never handed over to the Department. As already mentioned it is vacant land incapable of cultivation, so to say a barren land and the settled position of law that possession follows title is very much applicable to the facts of the case.

11. At present, the property is not valued in the register of guideline value kept in the Registrar Office, value mentioned as 0. Further the suit property is a barren land which is of very meagre value as its utility is nil. Hence, the valuation given by the plaintiff is very reasonable and acceptable. The plaintiff apprehends that at any point of time either the first Defendant may occupy the property or other defendants may lease out the property to any third parties. In fact some of the officials of the office of the fourth Defendant visited the property and proclaimed that they would soon lease out the property to a third party. This was on 09.12.2013. If they do so, the plaintiff will be gravely prejudiced. Therefore, the plaintiff is forced to file suit for the relief of declaration of this title and for injunction in respect of the suit properties.

12.The first defendant namely District Collector attached to the Tuticorin District has filed a written statement, which are as follows:-

It is submitted that one Thiru.Ramasubbiah son of Perumal Reddiyar of Chandragiri village, Ottapidaram Taluk presented a petition to Tahsildar, Thoothukudi on 9.5.12 by stating that an extent 13.88.5 Hec. in S.No.1/1 and 0.45.0 Hec in S.No.1/2B and an extent of 5.18.0 Hec. at S.No.348 of Mullakkadu Part-I Village in Thoothukudi Taluk were his ancestral property which were wrongly classified as Uppankarai and Salt Karai and Kaadu during UDR scheme in Village Accounts and requested to issue patta for the above lands in his name. Then, the above petitioner filed a writ in WP(MD)No.7826 of 2012 before this Court with the same prayer. This Court in its Judgment dated 12.6.2012 disposed the writ petition with direction to the Tahsildar, Thoothukudi to consider the petitioner's petition dated 09.05.2012 and pass appropriate orders within six weeks. As ordered, the Tahsildar, Thoothukudi considered the petition dated 09.05.2012 and passed orders dated 18.08.2012 rejecting the prayer of the petitioner by stating that the petitioner has not produced the link documents relating to the land in question and that the relevant documents is not in possession of the petitioner. The present plaintiff preferred an appeal petition dated 05.09.2012 before the District Revenue Officer, Thoothukudi. The Revenue Divisional Officer, Thoothukudi was requested to send his report dated 07.01.2013. After perusal of the connected records, the District Revenue Officer found that the land in question (viz) 348 measuring 5.18.0 Hec. is classified as "r g[[w fhL", the land in S.No.1/1 13.88.0 Hec. as Uppankarai Poramboke and S.No.1/2B 0.45.0 Hec. as Salt Karai Poramboke in the Mullakadu Village accounts. No tax for the land has been fixed and noted. In the Updating Registry Scheme the name of the pattadars, the extent they have possessed and further sub division numbers if any needed were only updated. Change of classification from Patta lands to Poramboke Lands and vice versa are not done as mentioned in the plaint. Based on the above records, the appeal petition of the petitioner was rejected by the District Revenue Officer, Thoothukudi vide his D1/37248/11 dated 27.03.2013 by stating that the title and possession over the said lands are not proved by the present plaintiff."

13. Aggrieved by the above order of the District Revenue Officer, Thoothukudi, the present plaintiff has preferred this O.S.No.67 of 2013 regarding the lands measuring 13.88.5 Hec. in S.No.1/1 and 0.45.0 Hec. land in S.No.1/2B before the Court of Additional District Judge-II, Thoothukudi.

i. This suit is not maintainable either in law or on facts of the case and hence it is liable to be dismissed in limine.

ii. It is submitted that the the title over the lands in question was claimed referring the document relating to the year 1899 which is beyond more than 100 years from the date of suit. Records relating to the period beyond 100 years cannot be relied as on date without updating them. The resettlement of the lands took place in between 1920 to 1950 and then the updating registry scheme was implemented in the village during 1979 to 1984 and the records of the UDR handed over to respective Tahsildar for maintenance on 31.10.1984 and this record is now in force. Based on this UDR "A" Register the lands in question S.No.1/1 measuring 13.88.5 Hec. is classified as "Uppankarai" and S.No.1/2B measuring 0.45.0 Hec. classified as "Salt Karai". The claim of the plaintiff is that the change of classification of the lands in question were given effect to in the Updating Registry Scheme without intimation to the title holders. The land records of UDR Scheme has been handed over to the respective Tahsildar of the concerned village on completion of the preparation of "A" Register. The date of handing over of Mullakadu village "A" Register of Thoothukudi District to Tahsildar Thoothukudi for maintenance is noted as 31.10.1984 in the "A" Register itself. From the above facts it is clear that the lands in question are Government lands.

iii. It is submitted that the lands at S.No.1/1 and 1/2B of Mullakadu Village were registered as detailed below at the time of UDR as:

S.No. and Subdivision No.	*Extent of land (in Hec)*	*Classification*	*Assessment (Rupee)*	*Patta No. and Name of Pattadar*	*Remarks*
1/1	13.88.5	Govt. Poramboke	-	-	Uppankarai
1/2B	0.45.0	Govt. Poramboke	-	-	Salt karai

iv. It is submitted that the plaintiff claims title over an extent of 28.10 Acres of land in S.No.1/1 and 1/2B totaling 35.41 Acres based on the sale deed effected on 03.01.1899 i.e. prior to more than 100 years. He is neither having any chain of document, nor is he in enjoyment of the lands claimed and he has not even paid the land revenue required for it for more than 100 years stating that the change of classification has been effected in the Updating Registry Scheme without his knowledge. The Updating Registry Scheme has been completed and the records handed over to Revenue Department in the particular village on 31.10.1984. It is submitted that during Updating Registry Scheme the name of the pattadars, the extent they held and the further subdivision if any are only updated in the village records. Existing Classification could not be changed in the Updating Registry Scheme.

v. It is submitted that when lands in an area was essentially required for bona fide public purposes, the private patta lands involved in that area will be acquired by government under land acquisition Act and not the lands which were already government poramboke lands. The land in question was already government poramboke land and hence the question of acquisition does not arise in this case.

vi. It is submitted that the change of classification of the land in question was not given effect to in the Updating Registry Scheme which was finalized and handed over Revenue Department for maintenance on 31.10.1984. It is submitted that during Updating Registry Scheme the name of the pattadars, the extent they held and the further subdivision if any are only updated in the village records. Existing Classification could not be changed in the Updating Registry Scheme.

vii. It is submitted that the land in question was govrnment poramboke land even prior to the Updating Registry Scheme. As such the claim of the plaintiff over it as his patta land is not true.

viii. It is submitted that the claim of the plaintiff is based on referring the document relating to the year 1899 which is beyond more than 100 years from the date of suit. Records relating to the period beyond 100 years cannot be relied as on date without being updated. This resettlement of the lands took place in between 1920 to 1950 and then the updating registry scheme implemented in the village during 1979 to 1984 and the records of the UDR handed over to respective Tahsildar for maintenance on 31.10.1984 and this record is now in force. Based on this UDR "A" Register the lands in question S.No.1/1 measuring 13.88.5 Hec. is classified as "Uppankarai" and S.No.1/2B measuring 0.45.0 Hec. classified as "Salt Karai". The claim of the plaintiff is that the change of classification of the lands is question were given effect to in the Updating Registry Scheme without intimation to the title holders. The land records of UDR Scheme has been handed over to the respective Tahsildar of the concerned village on completion of the preparation of "A" Register. The date of handing over of Mullakadu Village "A" Register of Thoothukudi District to Tahsildar Thoothukudi for maintenane is noted as 31.10.1984 in the "A" Register itself. Moreover the plaintiff is not in possession of land for which he prefers the present claim. Also he is not in possession of the records towards payment of land revenue for more than 100 years. Hence his claim cannot be entertained.

ix. It is submitted that the documents allegedly executed place between private individuals on government poramboke lands cannot be taken into account.

x. It is submitted that the plaintiff claims title over it on the basis of a document relating to the year 1899 which is prior to more than 100 years. There is no chain of document to prove his title over it and he did not prove his enjoyment over it by personal occupation of it or on payment of the required yearly land revenue for it.

14. It is submitted that the plaintiff presented a petition to Tahsildar, Thoothukudi on 09.05.2012 by stating that an extent of 5.18.0 Hec. in S.No.348, 13.88.5 Hec. in S.No.1/1 and 0.45.0 Hec. in S.No.1/2B of Mullakkadu Part-I Village in Thoothukudi Taluk were his ancestral property which were wrongly classified as Kaadu, Uppankarai and Salt Karai during UDR scheme in Village Accounts and requested to issue patta for the above lands in his name. Then the above petitioner filed a writ in WP (MD)No.7826 of 2012 before this Court with the same prayer. This Court in its Judgment dated 12.06.2012 disposed the writ petition with direction to the Tahsildar, Thoothukudi to consider the petitioner's petition dated 09.05.2012 and pass appropriate orders within six weeks. As ordered, the Tahsildar, Thoothukudi considered the petition dated 09.05.2012 and passed orders dated 18.08.2012 rejecting the prayer of the petitioner by stating that the petitioner has not produced the link documents relating to the land in question and that the petitioner was not in possession of the documents. The present plaintiff preferred an appeal petition

dated 05.09.2012 before the District Revenue Officer, Thoothukudi. After perusal of the connected records the District Revenue Officer found that the land in question (viz.) 348 measuring 5.18.0 Hec. is classified as "r g[w fhL", the land in S.No.1/1 13.88.0 Hec. as Uppankarai Poramboke and S.No.1/2B 0.45.0 Hec. Salt Karai Poramboke in the Mullakadu Village accounts. No tax for the land has been fixed and noted. In the Updating Registry Scheme the name of the pattadars, the extent they have possessed and further sub division numbers if any needed were only updated. Change of classification from Patta lands to Poramboke Lands and vice versa are not done as mentioned in the plaint. Based on the above facts, the appeal petition of the petitioner was correctly rejected by the District Revenue Officer, Thoothukudi vide his D1/37248/11 dated 27.03.2013 stating that the title and possession over the said lands are not proved by the present plaintiff and suit is liable to be dismissed.

15.The third defendant has filed a written statement on behalf of himself and second and fourth defendants which are as follows:-

The defendants stoutly deny the averments that the S.Nos.1/1 and 1/2B comprising the schedule property are subdivided from S.Nos.1A, B and the schedule properties and others originally belonged to one Govindasamy Reddiar and then he sold an extent of 39 Acres out of 45.26 Acres comprised in the said S.Numbers to (1) Perumal Reddiar S/o Muthuramalinga Reddiar (2)Subba Reddiar S/o Andi Reddiar (3)Subba Reddiar S/o Chennappa Reddiar (4)Pothy Reddiar S/o Andi Reddiar (5)Sundara Reddiar S/o Mallappa Reddiar and (6)Sangara Reddiar by executing a registered sale deed dated 03.01.1899 in favour of them vide Doc.No.53 of 1899. The defendants further denied the averments that the balance extent of 6.28 Acres also originally belonged to (1)Perumal Reddiar S/o Muthuramalinga Reddiar (2)Subba Reddiar S/o Andi Reddiar (3)Subba Reddiar S/o Chennappa Reddiar (4)Pothy Reddiar S/o Andi Reddiar (5)Sundara Reddiar S/o Mallappa Reddiar and (6)Sangara Reddiar. The defendants further denied the averments that various other properties was also conveyed through the said sale deed for valuable consideration and the original settlement register stood in the names of 10 persons in which the names of some of above said persons and the legal heirs of the deceased persons among above said 6 persons are found. The defendants further denied the averments that the genealogical tree mentioned in the III - 1st para as well as the contention of the same para that, they have been in enjoyment and possession of the said extent of 39 acres in S.No.1/1 in their own rights.

16. The defendants had further submitted that in fact the properties claimed by the plaintiff under R.S.No.1/1 - 31.48 Acres and 1/2B - 0.77 Acres of Mullakadu Village is under the control of Salt Commissioner's Organization of Union Government of India under Ministry of Commerce and Industry falling under the

jurisdiction of Salt Factory Officer, Urani Extension and Urani Salt Factory, Tuticorin Salt Circle. The plaintiff has misrepresented the Government property by producing an old sale deed and documents and wrongly stated that the said property is in their enjoyment and possession. Actually these area was under the possession of Salt Controller before 1935 and brought to the account of Government of India land records as per Section 172 of Government of India Act, 1935 and ever since under the control of Union Government through Salt Commissioner's Organization. The area is being verified by the Revenue authorities of State Government from time to time. The last exercise of verification of Central Government lands with their land records was carried out during 1981 and thereafter in the year 2011. The copies of verification statement which is duly countersigned by the Revenue Authorities are enclosed herewith as document-1. Before sub-division, this area came under Milavittan Village. These area had been defined as Tuticorin (Karapad) as per Government Resolution No.232/4178-R, Salt, dated 4th September 1901 under Milavittan Village (Copy enclosed as document -2). Further during 1928, the Tuticorin area had been bifurcated into two factories viz., "Karapad" and "Urani Salt Factory" under Sec.3 (i) of "The Madras Salt Act, 1889" as per Collector's Notification published on page 410 of the Gazette of India, Part-II, dated 3rd March 1928. (Collector's (Salt) RD is No.94-Salt - 27, dated 7th February 1928) wherein the boundaries of the Urani Salt Factory has been mentioned clearly. (Copy of extract of salt notification printed in the Madras Salt Manual vide page 78 under Item No.14 is enclosed as document-3). During the year 1953, the Salt Commissioner Organization had bifurcated the said Urani Factory into two factories viz., Urani and Urani Extension vide Notification published on PP 92-96 of Gazette of India, Part-1, Section-1 dated 14th March 1953 under Section 2(j) of Central Excise and Salt Act, 1944 under Sl.No.20 and 21. (The copy of extract printed in the Madras Manual vide page 419 and 420 enclosed as document-4).

17. The defendants had further denied the averments that by the sale deed dated 07.01.1931 in document No.24/1931 Chennappa Reddiar son of Subba Reddiar sold his undivided 1/6th share in all the properties purchased by the said 6 persons under the sale deed of the year 1899 including his 1/6th undivided share in survey No.1/2A, Survey No.1/1 by the time was subdivided, 50 cents and in survey No.1/C 25 cents, to one Ramasamy Konar son Lakshmana Konar". In fact the property under R.S.No.1/1 - 31.48 acres had been worked by the present lessee for several decades even before 1950 by getting a valid licence from Salt Commissioner's Organization as per Central Excise and Salt Act, 1944 and still manufacturing salt by getting a valid lease from Salt Commissioner's Organization and the current lease period is 01.03.1999 to 28.02.2019. The said property comprised in R.S.No.1/1 is mentioned in the schedule as item No.2

18.The defendants had further denied the averments that by the sale deed dated 05.05.1947 document No.761/1947 (1)Gurusamy Reddiar son of Subba Reddiar (2)Pothy Reddiar son of Pothy Reddiar (3)Perumal Reddiar son of Pothy Reddiar (4)Pothy Reddiar son of Chinnappa Reddiar (5)Shanmuga Reddiar son of Sundara Reddiar (6) Perumal son of Sundara Reddiar (7)Kumara Andi Reddiar son of Sangara Reddiar (8)Ramasamy Reddiar son of Kumara Andi Reddiar sold away their undivided 4/6th share in the extent of 6.83 acres in Survey No.1/2A". The defendants further denied the averments that this is due to the fact that the survey No.1/A, B which is 45 acres 26 cents was subdivided into 1/1, 1/2A, 1/2C and in the process of updating of Revenue Record namely UDR the Survey number was further subdivided into 1/2A1, 1/2A2, 1/2C1 and 1/2C2 and the property in S.No.1/2A before UDR measured 6.83 acres and 1/2C measured 3.01 acres before UDR and it was in these two survey number that the sale deed dated 05.05.1994 was executed by Gurusamy Reddiar and others in favour of Arumugasamy Nadar son of Subbaiah Nadar of the 4/6th undivided share.

19.The defendants had further denied the averments that Arumugasamy Nadar by sale deed under document No.3858/1961 sold away 3.01 acres in Survey No.1/2C to (1)Dhanuskodi (2)Muthu Kamatchi, (3)Ponnusamy and (4)Jayaraj and under sale deed No.3859/1973 sold away an extent of 1.09 acres in survey No.1/2A1 to a private limited company by name M/s.Gulf Olyphines Pvt. Ltd. under document No.3859/1973 and an extent of 5.74 acres in survey No.1/2A2 was sold by him under document No.1208/49 in favour of Tuticorin Marine Chemicals and the said Tuticorin Marine Chemicals sold the same to one Mr.Selvam Pillai under document No.1769/72 who in turn sold the same to M/s.Gulf Olyphines Pvt. Ltd. under document No.2468/72. In fact some of the R.S.Nos. such as 1/2A, 1/AB, 1/2C with subdivisions 1/2A1, 1/2A2, 1/2C1 and 1/2C2 etc. mentioned by the plaintiff are in no way concerned with Salt Commissioner's Organization and the property vested with Salt Commissioner's Organization is only under R.S.No.1/2B - 0.77 acres and 1/1 - 31.48 acres which are absolutely verified by the revenue authorities as per their land records and statement countersigned as document No.1.

20.The defendants had further denied the averments that "M/s.Gulf Olyphines Pvt. Ltd. became the owner of 1.09 acres in survey No.1/2A1, 5.74 acres in survey No.1/2A2, and 3.01 acres in survey No.1/2C totaling an extent of 9.84 acres (which is originally made up of 6.83 + 3.01=9.84). Out of this, an extent of 25 cent in survey No.1/2A, 2B and 2.50 acres in survey No.2/C was acquired for Express Highway and the balance of extent of 7.09 acres still stand in the name of M/s.Gulf Olyphines Pvt. Ltd. and the said Company is in possession of the same. The averments that M/s.Gulf Olyphines Pvt. Ltd. has also received compensation for the acquisition of land for Express Highway" are all irrelevant.

21.The defendants had further denied the averments that the balance extent in the subdivided survey No.1/1, that is the balance after sale in original survey No.1/A, B after subdivision, sale and acquisition is 13.88.5 Hec. (approx. 34.32 acres) and likewise in survey No.1/2B it is 0.45.0 Hec. (approx. 1.11 acres) and both put together the property that is left in the hand of the original owner and their descendants are 35 acres 45 cents and this is the remaining extent untouched in the total extent of 45 acres 26 cents as reflected in the Settlement Register and this extent of 35 acres and 45 cents includes the area over which the Railway line passes through and it's adjacent and the plaintiff understands that the area for railway line will be 2.9705 hect = 7.35 acres less this extent is the remaining extent in survey No.1/1 and 1/2B, that is 28.10 acres lying both north and south of railway line and the said properties are described below in the schedule as item No.1 and 2". The defendants had submitted that an extent of 2.82 acres under R.S.No.1/1B had been transferred to Tuticorin Harbor Project along with other areas for the purpose of laying Railway sidings during 1965 by Salt Department vide Ministry of Industry, Department of industrial Development, New Delhi letter No.04011/7/70-Salt dated 15.09.1980 conveyed the ex-post facto sanction of the Government to Tuticorin Harbor Project. (Copy enclosed as document-6). The plaintiff has misrepresented the area described in their schedule as if item Nos.1 and 2 belongs to them.

22. The defendants had further denied the averments that the these two survey numbers are classified as Uppankarai and formerly it was punja and it was not known how this classification of punja has been converted into Uppankarai in the UDR and that too without notice to the Plaintiff, who is the owner of the suit properties and the suit property is lying vacant and the change of classification behind the back of the plaintiff is illegal and it will not bind the plaintiff and it is also not known under what authority the change was effected and the original Settlement Register was changed and it is more so, because for the property owned by M/s.Gulf Olyphines Pvt. Ltd., as stated above, patta stands in its name for the extent in their possession after acquisition for Express Highway and while so, for the above said two survey numbers the patta does not stand for either in the name of the original ten persons or in the names of the descendants or in the name of the plaintiff and this it is inequitable to give patta to a particular person and deny the same to another, inspite of the fact that both of them claim under a common sale deed. The defendants had further submitted that as per the Adangal register maintained by the Village Administrative Officer, Mullakadu Part-II, the said property under R.S.Nos.1/1 for 13.885 Hec. (31.48 Acres) and 1/2B 0.45 Hec. (0.77 Ac) has been mentioned as "Uppankarai" and "Salt Bund" respectively. The copy of Adangal is enclosed as document-7. The classification of the said property

is not punja since its inception is Uppankarai as the said area is under Salt Manufacture even before 1901. The said property under R.S.No.1/1 was enjoyed with other areas by the predecessors of the present lessee M/s.Tuticorin Salt and Marine Chemicals by getting a valid license from Salt Department upto 1950 and thereafter enjoying the property under valid lease till now. The property under R.S.No.1/2B was classified as "Salt Bund" which is still under the control of Salt Commissioner's Organization.

23. The defendants had further submitted that the plaintiff has tried to get patta on Salt Organization's property during 2010 and based on the summon issued by the Tahsildar, Tuticorin the team of officials from Salt Department met him on 18.11.2010 explained about the ownership of the said property based on the vital documents and requested him not to issue patta on said property. The copy of letter dated 23.11.2010 issued by the Assistant Salt Commissioner, Tuticorin addressed to Tahsildar, Tuticorin is enclosed as document-8. As a lessor and custodian of the Government property, the third defendant, viz., Deputy Salt Commissioner, Chennai has also requested the District Collector, Tuticorin for stoppage of issue of patta to private parties vide his office letter C.No.12032(650)P/98/4432-38 dated 26.05.2011 document-9). After verifying the fact and figures furnished by the third defendant and since the defendant department, in the past and even now continues to exercise exclusive control over the ownership of the suit property, the Revenue Authorities i.e. Tahsildar, Tuticorin and the District Revenue Officer, Tuticorin have rejected the issue of patta to the plaintiff and therefore the plaintiff has no legal right to claim the ownership over the suit property.

24.The defendants had further submitted that the above said property comprising the schedule property wholly belongs to Government of India through Salt Commissioner's Organization and the plaintiff has no grounds to claim the right over it. The plaintiff's claim over the said property through the Sale Deed year 1899 would not bind the ownership title which is vested with Government of India even before 1901 as per Government Resolution No.232/4178-R, Salt, dated 4th September 1901 (Document-2) and as per Sec.172 of Government of India Act, 1935 made thereafter.

25.The defendants had further submitted that since the Salt Commissioner's Organization, Government of India is the owner of the said property as per the valuable records maintained at his level, the first defendant was requested not to issue patta in favour of the plaintiff. The above said property along with other properties as mentioned in the Government Notification dated 07.02.1928 have been brought to the land records of Salt Department as per Sec.172 of Government of India Act, 1935 duly observing the formalities as enumerated therein. After following the above formalities and as per Article 295 of Constitution of

India, Union of India retained the ownership of the land and has not transferred its ownership to the concerned Provincial / State Governments. As said earlier the property under RS.No.1/1 - 31.48 Acres has been leased out to the lessee M/s.Tuticorin Salt and Marine Chemicals Ltd., for salt manufacture and 1/2B - 0.77 Acres is being used as a protective bund for Uranai Extension Salt Factory till date. To substantiate the ownership of Government lands necessary particulars in this regard has been provided to the plaintiff's Advocate under Right to Information Act, 2005. If the plaintiff would have been the owner of the said property he would have made a claim at the time of transfer of those lands from Provincial / State Governments to Central Government under Government of India Act, 1935. It is quite surprising to note that the plaintiff remained silent all these years and claiming the ownership just now that too without having valid documents on his hand.

26.The defendants had further submitted that no guideline value can be fixed for Central Government lands and being the said property under the control of Government of India through Salt Commissioner's Organization, the value has been mentioned as Nil in the Register of Registrars. The value of the said property cannot be treated as meagre and the exact worth of the Government property to be estimated at par with the adjoining areas rate or as estimated by the Government authorized land valuers. The statement made by the plaintiff is totally not true when the officials of the fourth defendant was well aware of the fact that the said property has already been leased out to M/s.Tuticorin Salt and Marine Chemicals Ltd., and the lease is also current upto 28.02.2019 as it could be seen from the letter of fourth defendant vide his letter dated 23.11.2010 (document-8).

27.The defendants had further submitted that the petitioner is trying to fish the leased lands out of which some area was under utilization for specific purposes and grab them by stirring and seeking information regarding the details of the land through the counsel of the plaintiff under Right to Information Act from third defendant prior to filing of the present suit against the Sale Commissioner's Organization and suitable reply was also given to the plaintiff's counsel vide third defendant's letter dated 07.01.2014. (Copy enclosed as document-10). It was submitted that the plaintiff has no right to claim over Government property consisting an extent of 31.48 acres of Uppankarai Poramboke land comprised in R.S.No.1/1 and an extent of 0.77 acres of salt bund land comprised in R.S.No.1/2B of Mullakadu Village and the cause of action of this suit mentioned in the plaint is false and truthless. Therefore, this suit is not maintainable and the claim of the plaintiff also is not acceptable either in law or on facts of the case and hence it is just and necessary that this suit may be dismissed with cost.

28.After recording the averments of both sides, the trial Court had framed five issues namely:

"(1)Whether the plaintiff is entitled to get declaration as claimed in the suit?

(2)Whether the plaintiff is entitled to receive permanent injunction restraining the defendants from interfering with the suit schedule mentioned property?

(3)Whether the suit schedule mentioned property is classified as forest poromboke?

(4)Whether the schedule mentioned property is under the care and maintenance of the defendants 2 to 4? and

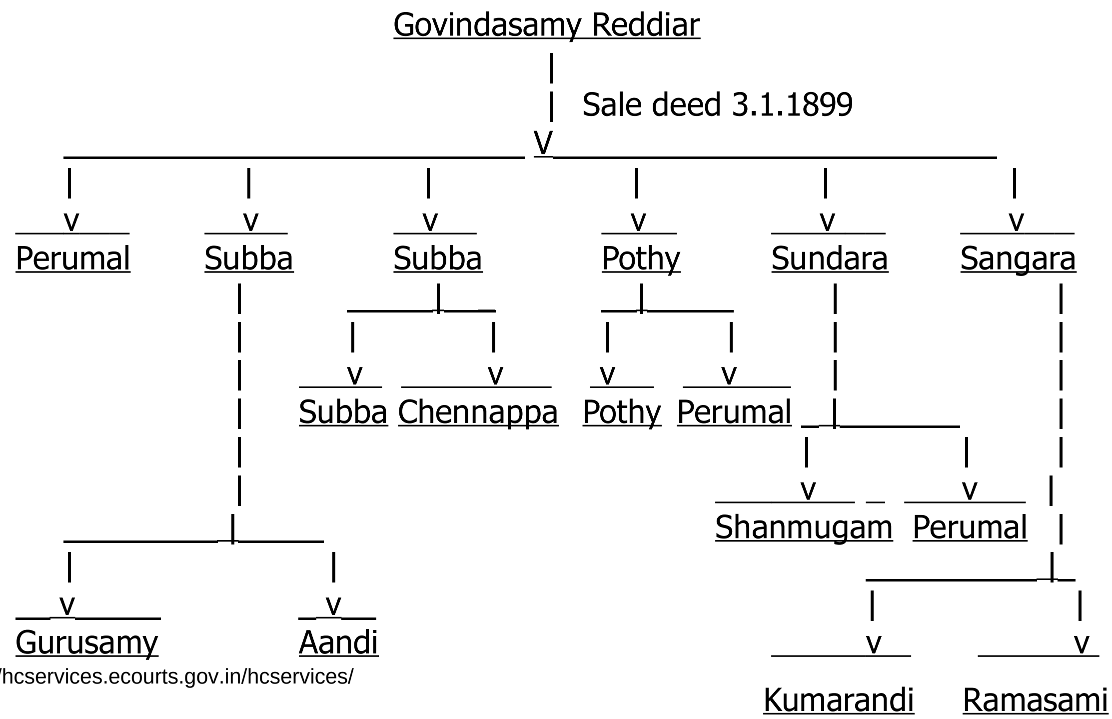
(5)To what other reliefs the plaintiff is entitled to?"

29.On the side of the plaintiff, two witnesses were examined and 18 documents were marked namely Ex.A1-Sale deed dated 09.01.1899 executed by Govindasamy Reddiar to and in favour of Perumal Reddiar and others; Ex.A2-Sale deed dated 07.01.1931, executed by Chennappa Reddiar to and in favour of Ramasamy Konar; Ex.A3-Sale deed dated 05.05.1947, executed by Gurusamy Reddiar and others to and in favour of Arumugasamy Nadar; Ex.A4-Sale deed dated 05.11.1973, executed by Arumugasamy to and in favour of Anbu Ashramam Sangam Cult Olitines Ltd.; Ex.A5-Sale deed executed by Tuticorin Salt and Marine Chemicals to and in favour of Selvam Pillai; Ex.A6-Sale deed dated 14.08.1972, executed by Selvam Pillai to and in favour of Cult Olitines (P) Ltd.; Ex.A7-Copy of 'A' register pertaining to the year 1911; Ex.A8-Proceedings of the Tuticorin Tahsildar dated 18.08.2012; Ex.A9-Proceedings of Revenue Divisional Officer attached to Tuticorin order dated 07.01.2013; Ex.A10-Order of the District Revenue Officer, Tuticorin, dated 27.03.2013; Ex.A11-Order passed in writ petition by the High Court dated 12.06.2012; Ex.A12-Copy of the details received from Tahsildar, under the Right to Information Act, pertaining to the suit schedule mentioned property; Ex.A13-Copy of the sale deed dated 09.01.1899, executed by Govindasamy Reddiar to and in favour of Perumal Reddiar and others; Ex.A14-Death Certificate of Perumal Reddiar; Ex.A15-Legal heir certificate of Perumal Reddiar; Ex.A16-Legal heir certificate of Sundara Reddiar; Ex.A17-Patta proceedings issued in the year 1976, pertaining to Survey No.1 and Patta No.40; Ex.A18-Land Tax receipts pertaining to Survey No.1 and Patta No.40 etc.

30.On the side of the defendants, two witnesses were examined and 11 documents were marked namely Ex.B1-Copy of the 'A' register pertaining to the suit property; Ex.B2-Verification Certificate jointly issued by Salt Department and Revenue Department for the year 1982 and 2011; Ex.B3-Copy of the resolution passed by the Government of India dated 04.09.2001; Ex.B4-Notification issued by the District Collector dated 03.03.2008; Ex.B5-Copy of the notification issued by the Central Government dated 14.03.1953; Ex.B6-Letter issued by the Department of Industries, attached to the Union of India dated 15.09.1980; Ex.B7-Copy of the letter issued by the Assistant Salt Commissioner dated 23.11.2010; Ex.B8-Copy of the letter issued by the Deputy Salt Commissioner, Chennai dated 26.05.2011; Ex.B9-A copy of the particulars issued by the Salt Department to Mr.John Alexander, Advocate under Right to Information Act, dated 07.01.2014; Ex.B10-Copy of the plan, after measuring the land comprised in Survey No.1/1, 1/2B,; Ex.B11-Copy of the letter dated 16.12.2012, issued by the Tahsildar, Tuticorin, wherein demand was made for survey fees.

31. PW1 (Plaintiff) had filed Swearing statement which are as follows:-

PW1 has stated that he is the plaintiff in the suit. PW1 has stated that the property comprised in Survey No.1/1 and 1/2B, the Sub-Division previous to Survey No.1A, B is situated at Mullakadu Village. The suit schedule mentioned property and other properties originally belonged to Govindasamy Reddiar, who had executed sale deed bearing No.53/1899 dated 03.01.1899 to and in favour of Perumal Reddiar, Subba Reddiar son of Chennappa Reddiar, Pothy Reddiar, Sundara Reddiar and Sankara Reddiar to an extent of 39 acres out of 45 acres 26 cents and delivered the possession. The rest of the lands to an extent of 6 acres 28 cents was originally belonging to Perumal Reddiar, son of Muthuramalinga Reddiar, Subba Reddiar son of Andi Reddiar, Subba Reddiar S/o Chennappa Reddiar, Pothy Reddiar, Sundara Reddiar and Sankara Reddiar. The original statement of the property have been registered in the names of the above mentioned persons. After their demise, the names of their legal heirs were included in the Patta register. The Genealogy of the legal heirs are as follows:



32.PW1 has further submitted that as per the sale deed dated 03.01.1899, the property comprised in Survey No.1/1, to an extent of 39 acres has been incorporated in the settlement register, wherein 10 names mentioned in the genealogy diagram were recorded as being in enjoyment independently. Under the circumstances, one of the co-owner, namely Subba Reddiar son of Chennappa Reddiar had executed a sale deed bearing document No.53/1899, to and in favour of Ramasamy Konar and transferred 1/6th share of the property comprised in 1/2A and 1/1. Besides, the enjoyment also had been delivered to him. Further, on 05.05.1947, the other 4 co-owners, namely Gurusamy Reddiar S/o Subba Reddiar, Pothy Reddiar S/o Pothy Reddiar, Perumal S/o Pothy Reddiar, Pothy Reddiar S/o Chennappa Reddiar, Shanmuga Reddiar S/o Sundara Reddiar, Perumal Reddiar S/o Sundara Reddiar, Kumarandi S/o Sankara Reddiar, Ramasamy Reddiar s/o Kumara Reddiar, had executed sale deed No.761/1947, to the third parties, to an extent of 6 acres and 8 cents.

33.The total land to an extent of 45 acres and 26 cents comprised in Survey No.1/A, B, was subdivided as survey No.1/1, 1/2A, 1/2C. Further, as per the revenue records, the properties are vested with the respective owners. Over the said property, railway track has been laid to an extent of 7.35 acres. The rest of the lands is comprised in Survey No.1/1 and 1/2B to an extent of 28.10 acres. The said land is situated on the northern side and southern side of the railway track. The said property is prescribed in the suit scheduled as item 1 and 2.

34.PW1 further stated that the said property has been described as Salt portion. Actually, the said property is classified as dry land. PW1 did not know how the property has been classified as Salt area, under UDR record. Before changing the land as Salt area, no notice was given to the land owners. The suit scheduled mentioned property is a vacant land but it has been wrongly mentioned as salt portion in the patta and hence, the plaintiff's property rights will not be in any way affected. The said property has been charged as salt portion, which is against the provision. PW1 further did not know how the defendants changed the character of the land and also under what provision. Further, M/s.Gulf Olyphines (P) Ltd. had been granted patta under the same Survey Number. The same is being enjoyed by the company. As such, the patta pertaining to the suit property has to be issued in the name of the plaintiff.

35.PW1 has further stated that he came to know about the change of the property rights only in the month of May 2012. Immediately, PW1 had made an application to the Tahsildar to rectify the error committed over the suit property. The Tahsildar had not given any reply on the said representation. Hence, he levelled a writ petition in WP(MD)No.7826 of 2012, before the

Madurai Bench of Madras High Court. This Court had given direction dated 02.06.2012; accordingly, the Tahsildar, Tutiorin had changed the patta. As per the subdivision, lands are comprised in Survey No1/2A, to an extent of 6 acres and 83 cents. Likewise in subdivision, lands comprised in Survey No.1/2C, is an extent of 3 acres and 1 cents. The said property in the two survey numbers was belonging to Gurusamy Reddiar and others i.e. 4/6th share was alienated to and in favour of Arumugasamy on 05.05.1947, to an extent of 3 acres 1 cents comprised in 1/2C. The said Arumugasamy Nadar had sold the said property under a sale deed bearing No.3858/1961, comprised in Survey No.1/2C, 3 acre and 1 cents to and in favour of Dhanushkodi, Muthukamatchi, Ponnusamy and Jayaraj. Further, the land to an extent of 1 acre, 9 cents had been alienated to and in favour of M/s.Gulf Olyphines (P) Ltd., under a sale deed No.3859/1947. The said property is comprised in Survey No.1/2A1.

36.PW1 has further stated that likewise, the land to an extent of 5 acre, 24 cents comprised in Survey No.1/2A2, was sold under a sale deed No.1208/1949, to and in favour of Tuticorin Marine Chemicals Company. The Tuticorin Marine Chemicals Company had executed a sale deed in document No.1769/1972, to and in favour of one Selvam Pillai. The said Selvam Pillai executed a sale deed in document No.2468/1974 to and in favour of M/s.Gulf Olyphines (P) Ltd. As such, the properties comprised in Survey Nos.1/2A1 to an extent of 1 acre and 9 cents, Survey No.1/2A2, 5 acres and 74 cents, Survey No.1/2C, 3 acres and 1 cents, in total 9 acre and 84 cents belongs to M/s.Gulf Olyphines (P) Ltd. Out of the said property, the land comprised in Survey No.1/2A, 1/2B, to an extent of 25 cents and survey No.2/C, 2 acres and 50 cents have been acquired for formation of National Highways. The balance lands to an extent of 7 acres and 9 cents is under the occupation and enjoyment of M/s.Gulf Olyphines (P) Ltd. PW1 came to understand that the compensation amount had been paid to M/s.Gulf Olyphines (P) Ltd. The rest of the property comprised in Survey No.1/1 has been subdivided as 1/A,B and sold. After selling the property and after acquiring the property, the rest of the portion of land was to an extent of 34 acres, 32 cents. Likewise, the land, to an extent of 0.45.0 hectares, is comprised in survey No.1/2B. Likewise, the properties have been acquired and sold.

37.Under the circumstances, the defendants 2 to 4 have objected to issue patta without any valid reasons. Under the circumstances, the first defendant had issued a letter dated 23.12.2010, objecting to the grant of patta to private individual, pertaining to the scheduled mention property, since the said property is belonging to the Salt Corporation erroneously. Further, the property comprised in Survey No.1/1 was never acquired for Tuticorin Port. The same particulars were collected from the defendants 2 to 4 under the Right to Information Act. As of now, the said land is still vacant, wherein no salt is stored and no manufacture of salt is undertaken. The property does not belong to the defendant. As such, the defendants 2 to 4 have no right to lease out the property. The defendants have been impleaded as necessary parties in order to bind them in the judicial decree. The said property is not suitable for cultivation and the suit property is under the occupation of the plaintiff.

38.PW1 further stated that as per the records maintained by the Registrar Office, the value of the land has been mentioned as zero. As such, there is no value for the land. The first defendant, at any moment will occupy the suit schedule mentioned property, unlawfully and the other defendants will lease out the property to third parties. Actually on 09.12.2013, the fourth defendant inspected the property and stated that they are going to lease out the property to other persons. If the defendant is allowed to carry out the same, the plaintiff will be put into hardship. Hence, he prayed for an order of declaration and injunction restraining the defendants.

39. PW2 had adduced evidence stating that he knows the plaintiff and his father Perumal Reddiar. After demise of Perumal Reddiar, the plaintiff succeeded the property and was enjoying the same. PW2 further stated that he looks after the cattle farms on the subject lands and takes the cattle for grazing over the said land. Further, the plaintiff has been cutting the standing trees once in three months.

40.DW1 / Deputy Tahsildar had adduced evidence that he is the subordinate to the District Collector. On 09.05.2012, the plaintiff had submitted an application stating that the property comprised in Survey No.1/1, to an extent of 13.88.5 hectare, the Survey No.1/2/B, to an extent of 0.45.5 hectare and Survey No.348, to an extent of 5.18.0 hectare, situated at Mullakadu, Part-I Village was originally belonging to his forefathers. The same was mistakenly mentioned as Salt area, under the UDR Scheme. The same was incorporated in the Village Revenue records. Hence, he claimed patta in his name. The plaintiff also filed a writ petition in W.P.(MD)No.7826 of 2012, on the file of Madurai Bench of Madras High Court. The same was disposed of with a direction to the Tahsildar, attached to the Thoothukudi Taluk to take necessary action and decide the same within six weeks. The Tahsildar had conducted enquiry and passed order in his proceedings dated 18.08.2012, stating that the subject land has not been under the enjoyment of the plaintiff. Aggrieved by the said order, the plaintiff made an appeal before the District Revenue Officer, dated 05.09.2012. In the said appeal, the District Revenue Officer has passed order dated 07.01.2012, stating that as per the Government G.O.Ms.No.776 dated 27.04.1981, the property comprised in Survey No.348, situated at Mullakadu Village was acquired for the purpose of Tuticorin Port Trust. DW1 further stated that the property comprised in Survey No.348, to an extent of 5.18.0 hectares, was classified as Poramboke forest land. The land tax had not been decided.

41. DW1 further stated that as of now, as per the revenue records, the pattas had been issued after subdivision and the same was converted into Poramboke lands, as alleged by the plaintiff, was not accepted by the District Revenue Officer. The plaintiff has filed the above suit against the order of the District Revenue Officer. The plaintiff's claim is on the basis of old documents i.e. documents executed 100 years ago and the same cannot be compared with revenue records. Subsequently, several changes had taken place. From the year 1920 to 1950, the relevant records have been renewed in the village accounts. From the year 1979 to 1984, relevant records are maintained by the Tahsildar, as per UDR patta proceedings dated 31.10.1984. As per UDR, 'A' register, the land comprised in Survey No.1/1, to an extent of 13.88.5 hectare, has been classified as salt area, Survy No.1/2B, to an extent of 0.45.0 hectare has been classified as salt area. Regarding this contention, the plaintiff had not given any reply. This fact came to effect from 31.10.1984, on the strength of UDR Scheme, prepared by the UDR Tahsildar in 'A' register.

42. DW1 further stated that the plaintiff has filed document dated 03.01.1899 pertaining to the suit property. Subsequently, other documents has been filed. Besides, no tax has been paid and there is no documents to prove continuity. The property was originally allotted for the use of general public and subsequently the same was acquired by the Government and classified as Government Poramboke land. Hence, DW1 had prayed to dismiss the above Appeal Suit.

43. DW2, had adduced evidence stating that in the year 1981 and 2011, the Salt Department and Revenue Department have jointly issued verification certificate dated 04.09.1901 and 03.03.1928 and Central Government notification dated 14.03.1953 stating that the subject lands is belonging to the Salt Department. DW2, had marked a Xerox copy of the lease deed dated 09.09.1999. The Commercial and Industries Department had issued letter dated 15.09.1980. She also marked a copy of the 'A' register issued by the Village Administrative Officer. DW2 further stated that Mr.John Alexander, Advocate had written a letter dated 07.01.2014, to the third and fourth defendants and sought information under the Right to Information Act. Accordingly, the information has been furnished along with a copy of the plan, after measuring the land. She further stated that the Collector notification dated 03.03.1928 is also available. Besides, the fourth defendant had sent a letter to the Tahsildar, Thoothukudi dated 23.11.2010. Hence, D.W.2. had entreated the Court to dismiss the said suit.

44. After recording the evidence of both sides and on perusing the exhibit marked by both sides and on hearing the arguments of learned counsels on all sides, the trial Court dismissed the said suit. Against the dismissal of the said suit, the above appeal has been filed.

45. The highly competent counsel Mr.N.Anandakumar, appearing for the appellant has submitted that the plaintiff had produced relevant documents and also adduced evidence with support of those documents and established his case stating that he is the absolute owner of the land and the same is under his care and occupation. As such, the appellant is entitled to receive judicial relief of declaration and injunction. The same was not considered by the trial Court. Further, the pattas have been issued in the name of the legal heirs of the original owners and this clearly proves that the lands does not belong to the Government, but belonging to private individual. DW1 had openly admitted that joint patta was issued to the holders of the suit schedule mentioned property. The respondents / defendants have not produced any relevant records to prove that the suit property is belonging to the defendants herein. As per the parent document dated 03.01.1899, the legal heirs had divided the properties. The co-sharers of the property had sold their shares to the third parties, who in turn obtained patta from the Tahsildar for their respective purchased portion of lands. However, the plaintiff had not sold the property to any persons and is still holding the same.

46. The highly competent counsel appearing for the appellant has further submitted that the defendants had not acquired the said property. The first defendant, who is the competent authority to produce necessary document pertaining to the suit schedule mentioned property before the Court has stated that the property is still under the care and occupation by the defendants 2 to 4. As such, the plaintiff's claim is a rightful one.

47. The highly competent counsel appearing for the appellant has further submitted that the property has been changed into Government Poramboke land; To that effect, no documentary fact has been marked. Some of the land owners, under the same survey number have received compensation from the Railway Department since their lands have been acquired for Railway Department. As such, the respondents / defendants have no title or rights over the said property. Actually, the UDR Tahsildar had erroneously changed the classification of land as Salt area (Uppankarai) without prior notice to the appellant herein. On the strength of an erroneous view of the UDR Tahsildar, the defendants are claiming rights over the property, which is a created and self serving document. DW2 had openly admitted that their property i.e. Salt department property is situated at Meelavittan Village;

however, the suit property is situated at Mullakadu Village. The same was not considered by the trial Court. Further, the property was belonging to the forefathers of the plaintiff. After their demise, he has succeeded the property. The cause of action in the suit arose when the UDR Tahsildar had changed the revenue records and the same was challenged before the revenue authorities. Subsequently, the suit has been filed and the entire facts of the case and documentary proof was produced. The highly competent counsel has cited the following judgments in support of his contentions:-

(i) Nachal and another v. C.Arjunan and another reported in ***1996 (I) CTC 650***

> *"Code of Civil Procedure, 1908, Order 1 Rules 1 and 9 - Non joinder Necessary Parties - One co-owner filing suit for declaration of his right and for injunction restraining trespassers from interfering with his enjoyment of property - Plaintiff co-owner admitting rights of other co-owners in suit properties - One co-owner can file suit against alleged trespassers and claim relief. Not necessary to implead other co-owners - Suit is maintainable."*

(ii) LIC OF INDIA v. RAM PAL SINGH BISEN reported in ***(2010) 4 Supreme Court Cases 491***

> *"A. Service Law - Departmental enquiry - Enquiry procedure - Evidence and proof - Procedure for proving documents when civil suit is filed questioning validity of departmental enquiry - Held, appellant employer should have proved contents of documents either by serving notice on respondent employee under Or.12 R.2 CPC (notice to admit documents) or by calling witnesses - Mere fact that documents were exhibited in civil suit did not mean that their contents stood proved - in the absence of such proof, appellant employer could not be considered to have proved its case that adequate opportunity was given to respondent employee and hence that enquiry had been conducted validity - Life Insurance Corporation of India (Staff) Regulations, 1960 - Regn. 40 - Civil Procedure Code, 1908 - Or.12 Rr.2, 2-A & 3-A - Insurance - Life Insurance Corporation Act, 1956, S.49(2).*
>
> *b. Evidence Act, 1872 - Ss.61 to 65, 67 and 73 - Proof of contents of a document - Held, mere filing or exhibiting of a document in Court does not amount to proof of its contents - Admission of a document in Court may amount to admission of its contents but not their truth - Further held, document not having been produced and marked as required under the Evidence Act, cannot be relied upon by court.*
>
> *C. Evidence Act, 1872 - S.17 - Admission - What is - Failure to prove defence, held, does not amount to an admission - Civil Procedure Code, 1908, Or.12 R.1.*

D. Evidence Act, 1872 - S.101 - Failure to prove defense, held, does not reverse or discharge plaintiff's burden of proof."

(iii) VIJAY KUMAR TALWAR v. CIT reported in ***(2011) 1 Supreme Court Cases 673***

"A. Income Tax - Appeal - Appeal to High Court - Scope of interference - Findings of fact - Concurrent findings of CIT (Appeals) and Tribunal were that assessee had failed to satisfactorily prove source of cash credits - High Court refused to interfere with orders of Tribunal holding that no substantial question of law was involved - On facts held, conclusion of Tribunal that assessee failed to prove source of cash credits cannot be said to be perverse, giving rise to substantial question of law - Tribunal being final fact-finding authority, in absence of demonstrated perversity in its finding, interference by High Court not warranted - Income Tax Act, 1961, S.260-A

B. Income Tax Act, 1961 - S.260-A - Appeal to High Court - Maintainability - Reiterated, appeal from decision of Tribunal to High Court lies only when substantial question of law is involved - Practice and Procedure - Appeal - Substantial question of law

C. Income Tax - Cash Credits - When to be treated as income of assessee - Held, where any sum was credited in books of assessee for any previous year, same may be charged to income tax as income of assessee of that previous year, if assessee cannot satisfactorily explain nature and source of said sum - Income Tax Act, 1961, S.68.

(iv) RAMESH KUMAR v. FURU RAM reported in ***(2011) 8 Supreme Court Cases 613***

"A. Arbitration Act, 1940 - Ss.32, 33, 30, 14 and 17 - Suit challenging validity of order an decree passed under S.17, on allegation of them having been obtained by fraud and misrepresentation - Maintainability - In order to establish said allegation of fraud and misrepresentation, further contentions raised that arbitration agreement and award as well as proceedings under Ss.14 and 17 were all fraudulent - Latter contentions, held, were merely incidental to the challenge to the order and decree of Court - Hence, Ss.32 and 33 do not bar maintainability of said suit - Civil Procedure Code, 1908, S.9."

(v) STATE OF HARYANA v. MUKESH KUMAR reported in ***(2011) 10 SCC 404***

"A. Property Law - Adverse Possession - Recommendation for abolition of, made - Development of

law of adverse possession traced - Held, basis of law of adverse possession i.e., inaction within limitation period, is wholly irrational, illogical and disproportionate - Held, situation having changed now, statute demands a change - Recommendation issued to Union of India for abolition of law of adverse possession and in alternative to make suitable amendments in law of adverse possession - Even England, wherefrom the law of adverse possession has been inherited, has amended and changed its law in this regard, particularly in light of the view that right to property is a human right - Equity - Tort Law - Trespass to land - Specific Relief Act, 1963 - Ss.5 and 34 - Limitation Act, 1963 - Art.65 - Tenancy and Land Laws - Land grabbing

B. Human and Civil Rights - Right to Property - Nature and scope - Held, right to property is not only a constitutional or statutory right but also a human right - Hence claim of adverse possession has to be read in that context - Substantial changes made in English law on this basis, hailed - Constitution of India - Art. 300-A - Property Law - Adverse possession

C. Property Law - Adverse Possession - Claim of adverse possession by Government - Impermissibility - Held, State, being a welfare State cannot acquire land of its citizens by adverse possession - Limitation Act 1963 - Art. 65 - Constitution of India - Art. 300-A an Pt. IV - Tenancy and Land Laws - Land grabbing.

D. Property Law - Adverse possession - Claim of adverse possession - Nature of - Reiterated, a right of adverse possession is a negative right - Held, a person pleading adverse possession has to establish all facts necessary to establish adverse possession - No equity would arise in favour of claimant by adverse possession - Limitation Act, 1963, Art. 65"

48. The highly competent counsel has further submitted that the Ministry of Salt Commission, New Delhi had issued a publication in the year 1953, and declared that only Meelavittan Village has been declared as Salt Village. The Village, Mullakadu is excluded. Therefore, the defence raised by the defendants is not maintainable.

49. The very competent Government Advocate Mr.R.Velmurugan appearing for the first respondent has submitted that the Tahsildar, attached to the Thoothukudi Taluk Office conducted an enquiry on the basis of direction given by the Madurai Bench of Madras High Court in the writ petition and had come to a conclusion that the plaintiff is not in physical possession. The same was ordered in his proceedings dated 18.08.2012. Against the said order, the plaintiff has filed an appeal before the District Revenue Officer, who had observed that

as per the Government G.O.Ms.No.776 dated 27.04.1981, the land had been acquired pertaining to Survey No.348 for the purpose of Tuticorin Port. Further, the said land had been classified as forest land. As such, the plaintiff's relief against the defendant is not maintainable. The plaintiff had not produced any valid documents to establish his case. The highly competent counsel has cited a judgment reported in ***(2001) 1 Supreme Court Cases 222 (Union of India and Another v. Mundra Salt and Chemical Industries and Others)***

> *"A. Constitution of India - Art. 294 - Ownership of land - Held, concept of exclusive ownership of Crown or Central Govt. stood dissolved after coming into force of Constitution of India - In case of conflict between Union Govt. and a State, the controversy, held, was to be adjudicated with reference to Art. 294 - Clarified that rights over land acquired by an individual remained valid - Further held, S.37 of Bombay Land Revenue Code, 1897 under which Union Govt. was presumed to be the owner of any land, in respect of which any individual failed to establish his title, was obsolete - Respondents acquiring disputed land in 1955 on basis of public auction - State Govt. issuing notice (1980) under S.6 of Land Acquisition Act for acquisition of portion of the land - Appellant Union of India (Salt Deptt.) challenging title of respondents in respect of the land - After a series of proceedings before Revenue Authorities, High Court directing District Court to decide question of ownership in pending Land Acquisition References - District Court holding that respondents were owners and entitled to compensation - Held, High Court rightly affirmed the order of District Court and rightly held that S. 37 of Bombay Land Revenue Code could not confer title on appellant Union of India - Tenancy and Land Laws - Bombay Land Revenue Code, 1879 (5 of 1879), S.37 - Held, obsolete - Land Acquisition and Requisition - Land Acquisition Act, 1894, S.6.*
>
> *B. Government of India Act, 1935 - Ss. 99 and 100 r/w Sch. VII List II Entry 21: "land", Entry 39: "land revenue" - Federal and provincial legislative powers, held, effectively demarcated for the first time by Government of India Act - Entries 21 and 39 of List II clearly establish that "land" and "land revenue" matters came under the jurisdiction of the provinces or States, even before the coming into force of the Constitution of India - Constitution of India, Arts. 245 & 246, Sch. VII List II Entries 18 and 45."*

50. The learned Central Government Standing Counsel Mr.D.Saravanan, appearing for the respondents 2 to 4 has submitted

that in the year 1981 and 2011, the Salt Department and Revenue Department, had jointly issued verification certificate stating that the said property belongs to the Government. Further, as per the 'A' register, the land has been classified as Forest poramboke. Further, the subject lands situated at Mullakadu Village is under the control of the Salt Commissioner's Organization, attached to the Union Government of India. The plaintiff had claimed rights based on an old document. Actually, this area was under the possession of Salt Controller before the year 1935 and brought to the account of Government of India. The revenue authorities also verified the land records periodically. The revenue authorities have also countersigned that the property is under the control of Salt Organization. Further, the Salt Commissioner Organization had given Central Government Gazette notification stating that the Meelavittan Village had been fabricated into two factories namely Kavapadu and Union Salt Factory. As such, the lands are under the control of Salt Commissioner's Organization. Hence, the learned Central Government Standing Counsel has entreated the Court to dismiss the above appeal, since the Salt Department is in possession of the property.

51.From the above discussion, this Court is of the view that:-

(i) The suit property was originally belonging to Mr.Govindasamy Reddiar, who had sold the property by way of registered sale deed dated 03.01.1899, sale deed bearing No.53/1899 to and in favour of six persons. Therefore, the suit mentioned property is belonging to a private individual as per the parental document. Therefore, the respondents / defendants / State and Central Governments have no right to interfere with the suit schedule mentioned property.

(ii) The respondents / defendants have not furnished any proof to prove that they are possessing of the lands under their care and control.

(iii) The first defendant has stated that the land has been classified as Government poramboke land. However, no reason has been put-forth to show as to how the first defendant / District Collector of Tuticorin has converted private land into Government poramboke land.

(iv) This Court's further view is that a part of the scheduled mentioned property comprised in Survey No.1/1 was sold under registered sale deed bearing No.3858/1961 to and in favour of third parties viz., Dhanuskodi and three others who in turn sold the property to an extent of 1.09 acres to and in favour of M/s.Gulf Olephines Pvt. Ltd. under a registered sale deed. It clearly shows that the property is belonging to private parties, and not belonging to the Government.

(v) Originally, the land was classified as dry land. The same was classified by UDR Tahsildar as Uppankarai. This order has been passed suo moto by the Government Authority.

52. Considering the facts and circumstances of the case and arguments advanced by the learned counsels on all sides and on perusing the typed-set of papers and this Court's view (i) to (v), the above appeal suit is allowed. Consequently, the judgment and decree passed in O.S.No.67 of 2013, on the file of II Additional District Court, Thoothukudi, dated 09.01.2015 is set-aside and this Court declares that the plaintiff / appellant herein is the absolute owner of the property mentioned in the schedule of the plaint. Further, this Court restrains the respondents herein from any manner of interfering with the peaceful possession of the plaintiff. Accordingly ordered. In the result, the above appeal suit is allowed. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Record)

/True copy/

Sub Assistant Registrar
Madurai Bench of Madras High Court,
Madurai.

vs / r n s

To

The II Additional District Court,
Thoothukudi.

+1 cc to Mr.D.Saravanan, Advocate, SR No. 6532

+4 cc to Mr.N.Anandakumar, Advocate, SR No.6289

Order made in
A.S.(MD)No.51 of 2015
01/02/2016

RG.NGM-SS/SAR-I 24.02.2016 28P/7C