

IN THE HIGH COURT OF JUDICATURE AT MADRAS
RESERVED ON:12.01.2017
DATE OF DECISION:07.02.2017
CORAM:
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

A.S.No.500 of 2015

1.Shevapet Sowrashtra Vidhyalaya Sabai Trust
Represented by its President
64, Manickam Street,
Shevapet, Salem-636 002.

2.Shevapet Sowrashtra Maruthi Association
Represented by its President
Achi Ramasamy Street
Shevapet, Salem-636 002.

... Appellants

Vs

Sri Panduranganadhaswami Devasthanam
Represented by its Trustees, V.H.Jagadeesh
D.No.113, Manickam Street,
Shevapet, Salem-636 002.

... Respondent

This appeal is filed under Section 96 of C.P.C. against the judgement and decree dated 18.03.2014 in O.S.No.73 of 2010 on the file of the I Additional District Court, Salem.

For Appellants : Mr.D.Sivakumaran

For Respondent : Mr.V.Raghavachari

J U D G E M E N T

The defendants who suffered a decree for declaration and consequential relief of recovery of possession are the appellants. The suit in O.S.No.73 of 2010 was filed by the respondent against the appellants, namely Shevapet Sowrashtra Vidhyalaya Sabai Trust and Shevapet Sowrashtra Maruthi Association seeking the following reliefs.

"a)Removing the entire trustees, managing committee members, directors, presidents, secretary, cashier etc. of the defendants organisations;

b)declaring that the suit properties absolutely belong to the plaintiff devasthanam and the plaintiff devasthanam alone has got the right and title over

the suit properties for the benefit of the entire Shevapet Sowrashtra community people;

c)declaring that the plaintiff devasthanam alone has got right to manage the affairs and administration of the defendants organisations and the suit properties;

d)vesting the suit properties in the plaintiff devasthanam;

e)directing the defendants, their presidents, secretaries, trustees committee members to deliver possession of the suit properties to the plaintiff devasthanam;

f)directing the defendants to render accounts and inquiries of the defendants organizations to the plaintiff devasthanam and the Shevapet Sowrashtra community people;

g)declaring that the suit properties and its income including accrued income in the hands of the defendants are to be handed over to the plaintiff devasthanam for the beneficial use of the Shevapet Sowrashtra community people as a whole;

h)restraining the defendants and their men in any manner causing any damage to the suit properties and the management of the affairs of the defendants organizations;

2. According to the plaintiff it is the sole representative of the entire Sowrashtra Community people in Shevapet, Salem. The said community possessed properties, institutions, Organizations etc., which are maintained and managed by the plaintiff Devasthanam through its Trustees. The plaintiff would claim that it is a Public Trust for the benefit of the entire Sowrashtra Community, Shevapet, Salem.

3. The plaintiff Devasthanam owns various properties and in the list of properties, the plaintiff had added Sowrashtra Vidhyalaya Aided Middle School, Sowrashtra Vidhyala Aided Primary School, Sowrashtra Maruthi (Degappiyasa) Sangam (subsequently converted as Sevapet Sowrashtra Maruthi Association.) The properties that are the subject mater of the suit are as follows:

Description of property

"1st Item: In Salem West Regn. Dist., Salem Jt.3 Sub Regn. Dist. in Shevapet Manickam Pillai Street, the land and building bearing door No.64, presently in the possession of the 1st defendant.

2nd Item: In Salem West Regn. Dist., Salem Jt.3 Sub Regn. Dist., in Shevapet, S.No.48/1,2,S.No.54,56,70,71 and S.No.1, then S.No.537,538,539,547,546 and 549, the land measuring 31,555 sft with the building constructed on this land with all fittings, fixtures and easement rights, present in the possession of the 2nd defendant."

4. According to the plaintiff, the 1st item of the suit properties originally were owned by Ramanujar Madam, which was managed by Vedhantha Sabai. During the year 1944, the suit property was gifted to the plaintiff Devasthanam. During the year 1945, the plaintiff Devasthanam constructed a building out of its own funds and from the contributions received from the entire Sowrashtra people of Shevapet and the new building was named as "Vittoba Nilayam". A school was established in the said building and the plaintiff Devasthanam has appointed a Managing Committee called as "Sowrashtra Vidhyalaya Sabai" to look after the day to day administration of the school.

5. The 1st defendant is the creation of the plaintiff for the purpose of managing the school. As years have rolled two schools came into existence namely, Sowrashtra Vidhyalaya Aided Middle School and Sowrashtra Vidhyalaya Aided Primary School. Both the schools are under the management of the Committee. The said Committee said to have been appointed by the plaintiff. During Audit, it is claimed that HR & CE Department insisted the plaintiff Devasthanam to collect rent from the school, since the building belonging to Devasthanam has been occupied by the school. Therefore, the plaintiff had been collecting the nominal rent from the 1st defendant. The rent paid by the 1st defendant was for the benefit of the entire Sowrashtra Community of Shevapet, Salem. Since the 1st defendant was found to be mismanaging the affairs of the school and had created a trust in the name of Sowrashtra Vidhyalaya Sabai Trust, without the knowledge and permission of the plaintiff, the plaintiff had passed a resolution to remove the Committee and take over the management of the school directly. Since the persons, who were members of the 1st defendant failed to hand over the management of the school to the plaintiff, the plaintiff had come forward with the above suit as against the 1st defendant.

6. In so far as the 2nd item of the suit property is concerned, the plaintiff pleaded that the suit property was purchased by the Sowrashtra Community on 05.05.1834 and it has been in possession of the said Community since then. The income from the 2nd item of properties has also been utilised for the benefit of the people. It is claimed that the plaintiff Devasthanam had appointed the Managing Committee in the name of Sowrashtra Maruthi Association to look after the affairs of the 2nd defendant. Since the 2nd defendant mismanaged the funds and formed a separate Trust against the interest of the plaintiff Devasthanam and the Sowrashtra Community, Shevapet, the Plaintiff Devasthanam had demanded the 2nd defendant to hand over possession of the property to the plaintiff Devasthanam. Since the 2nd defendant has failed to hand over the property as demanded by the plaintiff, the plaintiff has come forward with the above suit for the reasons stated supra. The suit was filed under Order VII Rule 1 and Section 92 and 151 of Code of Civil Procedure.

7. The 1st defendant filed written a statement, which was adopted by the 2nd defendant also. The fact that the plaintiff Devasthanam belongs to a Religious Denomination namely, Sowrashtra Community of Sevvapet, Salem is admitted. The defendants would deny the claim that the plaintiff is sole representative of the entire Sowrashtra community people of Shevapet, Salem. The 1st defendant is an independent entity, which has been running a school namely Sowrashtra Vidhyalaya Primary School in the suit item No.1 and from 1964 onwards, the 1st defendant has been paying rent to the plaintiff Devasthanam. Originally the rent was fixed at Rs.50/- per month which was enhanced to Rs.100/- in 1995 and it has been further enhanced to Rs.140/- per month in the year 1997. During the year 2006, the plaintiff demanded exorbitant sum of Rs.15,000/- towards rent. The 1st defendant was unable to agree to such an unreasonable demand and hence, the 1st defendant wrote a letter requesting the plaintiff to drop the proposed enhancement. According to the 1st defendant it is an independent body over which, the plaintiff Devasthanam has no control.

8. It is also contended that the Sowrashtra Vidhyalaya Aided Elementary school is being run in the building belonging to 3rd persons and therefore, the claim of the plaintiff that the two schools namely Sowrashtra Vidhyalaya Aided Primary School and Sowrashtra Vidhyalaya Aided Elementary School belonged to the plaintiff was specifically denied.

9. In so far as the 2nd defendant is concerned, it was claimed that 2nd defendant namely, Shevapet Sowrashtra Maruthi Association is a Registered Society having been registered on 18.12.1944. It has got its own members who elect its office bearers and it is being managed by the elected Office bearers.

In the earlier proceedings, the title of the 2nd defendant to the 2nd item of the property has been confirmed. Therefore, both the defendants would contend that they are independent entities and the plaintiff has no right to seek either to remove the trustees or the office bearers or possession of the properties.

10. The suit was filed under Section 92 C.P.C. and the suit prayers also fall within the scope of Section 92 of C.P.C., no leave was obtained as contemplated under Section 92 of C.P.C. Though absence of leave was not raised as defence in the written statement, it is seen from the judgement of the Trial Court that the said contention was in fact argued by both the counsel and the learned Trial Judge had come to the conclusion that no leave is necessary. On the basis of the above pleadings, the learned Trial Judge namely, the 1st Additional Sub Court, Salem framed the following issues:

- 1) Whether the plaintiff is entitled to for declaration and consequential relief of recovery of possession and direction as prayed for?
- 2) Whether the plaintiff is entitled to the relief of permanent injunction as prayed for?
- 3) To what other reliefs are plaintiff entitled to?

11. On the side of the plaintiff two witnesses were examined and Exs.A1 to A16 were marked. On the side of the defendants, two witnesses were examined and Exs.B1 to B23 were marked.

12. Upon a consideration of both oral and documentary evidence, the learned Trial Judge found that no leave under Section 92 CPC is required for filing the above suit inasmuch as the plaintiff is founded for the benefit of specific individuals.

13. The learned Trial Judge has also concluded that the 1st and 2nd defendants were in fact created by the plaintiff, as such persons in management of 1st and 2nd defendants cannot claim any independent right. After referring to the contents of the documents, namely Exs.A5,A12,A15, learned Trial Judge concluded that the defendants being creations of plaintiff Devasthanam cannot claim any independent right. The learned Judge would also rely upon Ex.A13 judgement in A.S.Nos.154, 155,156 of 1963, Sub Court, Salem, wherein it was found that the properties now described as suit item No.2 belonged to the entire Sowrashtra community. On the aforesaid findings, the learned Trial Judge granted a decree as prayed for in the suit.

14. Aggrieved by the judgement and decree, the defendants had originally filed an appeal in A.S.No.35 of 2014 on the file of the II Additional District Court, Salem. In the said appeal, the plaintiff/respondent herein had filed I.A.No.465 of 2014

seeking the Lower Appellate Court to decide the question of jurisdiction preliminarily contending that the suit being one under Section 92 of C.P.C. and the appeal against the decree, lies only to this Court and not before the District Court. It appears that the said application was dismissed by the District Court by order dated 02.07.2014. The plaintiff had filed CRP (NPD) No.2894 of 2014, challenging the said order dated 02.07.2014. The learned counsel for the plaintiff/respondent herein had specifically contended that the suit is one under Section 92 and therefore, in view of the judgement of the Hon'ble Supreme Court Jayaram Educational Trust and others vs. A.G.Syed Mohideen and others reported in (2010) 2 SCC 513, the District Court has no jurisdiction to entertain the appeal against the judgement of the Trial Court. Accepting the said contention of the plaintiff/respondent herein, this Court by order dated 03.07.2015, while allowing the revision directed the District Court to return the papers in the appeal to the appellants herein to enable them to file an appeal before this Court and two weeks' time was also granted to the appellants to present the appeal in this Court. Pursuant to the said orders, the present appeal has been filed before this Court.

15. I have heard Mr.D.Sivakumaran, learned counsel appearing for the appellants and Mr.V.Raghavachari, learned counsel appearing for the respondent.

16. Mr.D.Sivakumaran, learned counsel appearing for the appellants would contend that in the absence of leave being granted the suit under Section 92 cannot be entertained by the Court. According to the learned counsel grant of leave is a condition precedent and it's absence would result in dismissal of the suit. He would also invite my attention to judgment in Cuddappa Ghouse Khan vs. Bala Subba Rowther reported in 1927 (2) MLJ 412. He would also rely upon the judgements of the Hon'ble Supreme Court in R.M.Narayana Chettiar and another vs. N.Lakshmanan Chettiar and others reported in (1991) 1 SCC 48 and in the case Vidyodaya Trust vs. Mohan Prasad R and others reported in (2008) 4 SCC 115. Relying upon the aforesaid decisions, the learned counsel would contend that the Trial Court erred in holding that leave under Section 92 is not mandatory.

17. The learned counsel for the the appellant would also contend that the plaintiff had admitted in the plaint itself that the defendants have formed two trusts and the 1st prayer in the plaint is for removing the trustees. Pointing out that neither the Trust nor the trustees have been made parties to the suits. The learned counsel would contend that in the absence of necessary parties, the learned District Judge ought not to have granted the prayers in the suit.

18. Per contra, Mr.V.Raghavachari, learned counsel appearing for the respondent would contend that grant of leave is not mandatory, as the suit is one under Section 92 of C.P.C. The learned counsel would rely upon the decisions in Govindasami Kadavakan vs. Kaliaperumal Munayathiriyar and others reported in 16 LW 155; Tirupati Devasthanam Committee v. Krishnayya reported in 56 LW 260; Pentakota Sreeramulu Naidu v. Gudijala Sathinayudu and others reported in 67 LW 57 and P.R.Pandurangan Chettiar and another vs. M.Balakrishnan and others reported in 2010 (4) CTC 202.

19. Relying upon the aforesaid decisions, the learned counsel would contend that the suit itself is not one under Section 92 C.P.C. and therefore, absence of leave cannot be made the basis for dismissal of the suit. As regards the second contention, the learned counsel would submit that the details of the trust are not available with the plaintiff and the plaintiff had in the plaint pleaded that the trusts were subsequently abolished and therefore, non impleading of the Trust and the trustees will not affect the suit.

20. Both the learned counsel have also addressed the argument on merits of the matter by inviting me to the oral and documentary evidence on record. Considering the above pleadings and the arguments of the learned counsel on either side, the following points are framed for determination in the appeal.

1. Whether the plaintiff should have obtained leave under Section 92 C.P.C. prior to the filing of the present suit?
2. Whether the suit as framed could be decreed in the absence of Trusts and Trustees as parties.
3. Whether the plaintiff is the absolute owner of the defendants and their properties.

Point No.1

21. As already stated, the suit has been filed under Order VII Rule 1 and 6 read with Section 92 of C.P.C. The prayer in the suit, particularly prayers A, D,E and F fall within the scope of Section 92 of C.P.C.

22. It is averred in the plaint that 1st and 2nd defendants have formed certain Trusts and have diverted the funds of the institutions. Therefore, it is clear that the plaintiff seeks removal of the Trustees of those Trusts. It is not the case of the plaintiff that the said Trusts are not Public Charitable Trusts. It is settled law that if any of the reliefs prayed for in the suit fall within the ambit of Section 92 C.P.C., obtaining of leave is a condition precedent and it cannot be held to be directory or optional. The learned Trial Judge had considered only the claim and the status of the plaintiff, while

concluding that the leave is not mandatory. In a case Cuddappa Ghouse Khan vs. Bala Subba Rowther reported in 1927 2 MLJ 412, a Division Bench of this Court had referred to observations of Justice Sadasiva Aiyar in Ammukutty vs. Manavikraman reported in (1920) ILR 43 Madras 793, wherein the learned Judge while dealing with the suit instituted against the receiver appointed by a Court without obtaining the previous sanction of the later affected the jurisdiction of the Court, observed as follows:

"This sanction is not a condition imposed by statutory law like the sanction mentioned in Section 92, Civil Procedure Code or Section 17 of the Presidency Towns Insolvency Act."

Relying upon the aforesaid observations, the Hon'ble Division Bench had held that leave required under Section 28(2) of Provincial Insolvency Act is a condition precedent and the failure to obtain leave, cannot be cured thereafter.

23. Mr.D.Sivakumaran, learned counsel for the appellants would rely upon the observation of this Court to contend that sanction or leave under Section 92 C.P.C. being a statutory requirement cannot be waived or dispensed with. He would also invite my attention to the judgement of the Hon'ble Supreme Court in R.M.Narayanan Chettiar and another vs. N.Lakshmanan Chettiar and others reported in (1991) 1 SCC 48, wherein the Hon'ble Supreme Court had observed as follows:

"A plain reading of Section 92 of the code indicates leave of the Court is a precondition or a condition precedent for the institution of a suit against a public trust for the reliefs set out in the said Section; unless all the beneficiaries join in instituting the suit, if such a suit is instituted without leave, it would not be maintainable at all."

24. He would also seek support from the observations of the Hon'ble Supreme Court in Vidyodaya Trust vs. Mohan Prasad R and others reported in (2008) 4 SCC 115. Para 19 of the said judgement reads as follows:

"19. In the suit against public trusts, if on analysis of the averments contained in the plaint it transpires that the primary object behind the suit was the vindication of individual or personal rights of some persons an action under the provision does not lie. As noted in Swami Pramathanand case a suit under Section 92 CPC is a suit of special nature, which presupposes the existence of a public trust of religious or charitable character. When the plaintiffs do not sue to vindicate the right of the public but seek a declaration of their individual or personal rights or the individual or personal rights of any other persons or persons in whom they are

interested, Section 92 has no application."

As could be seen from the above pronouncements of the Hon'ble Supreme Court once, a suit is filed in a representative capacity vindicating the rights of the public at large and claiming reliefs on behalf of the public it would be the suit under Section 92 C.P.C. and non obtaining of leave would definitely result in the suit being dismissed on the sole ground.

25. However, Mr.V.Raghavachari learned counsel appearing for the respondent would rely upon the judgement of this Court in .Govindasami Kadavakan vs. Kaliaperumal Munayathiriyar and others reported in 16 LW 155 and contend that leave is not necessary. In the said case some of the trustees filed a suit for accounts against their co-trustees. After having held that the suit would be one under Section 92 and the learned District Munsif has no jurisdiction to entertain the suit, the Division Bench directed the suit to be returned for presentation before the appropriate court. Therefore, the question whether the leave is required under Section 92 C.P.C. for institution of a suit was not actually decided in the said decision.

26. The learned counsel appearing for the respondent would also rely upon the judgement of this Court in Pentakota Sreeramulu Naidu v. Gudijala Sathinayudu and others reported in 67 LW 57. That was a case where suit for declaration that the defendant is co-trustee along with the plaintiff and this Court held that the suit is not one under Section 92 C.P.C. As far as present suit is concerned, records show that the plaint itself is filed under Order 7 Rule 1 and Section 92 C.P.C. When the decree in the suit was challenged by the defendants before the District Court Salem, the plaintiffs filed I.A.No.465 of 2014 in A.S.No.35 of 2014 seeking a decision on jurisdiction contending that the appeal would lie to this Court, since the suit is one under Section 92 CPC. On the District Court deciding the said issue against it, the plaintiff filed a Civil Revision Petition in C.R.P.No.2894 of 2014. Challenging the said order primarily contending that the suit is under Section 92 C.P.C. and therefore, the appeal would lie to this Court and not to the District Court. Accepting the said submission, this Court allowed the Civil Revision Petition and directed the appeal to be returned for presentation to this Court. Hence, I find that plaintiff/respondent cannot blow hot and cold and now reverse their stand to claim that the suit is not one under Section 92 C.P.C.

27. Reliance is placed on a judgement of the Division Bench of this Court in P.R.Pandurangan Chettiar and another vs. M.Balakrishnan and others reported in 2010 (4) CTC 202 to contend that leave under Section 92 CPC is not necessary. From the report, it could be seen that the defendants in the suit had

raised the plea of want of leave and this Court on facts held that the suit does not fall under Section 92 C.P.C. since the trust itself is not a public trust. The said judgement is also not of any assistance to the respondent. In the light of the categorical pronouncements of the Hon'ble Supreme Court in R.M.Narayana Chettiar and another vs. N.Lakshmanan Chettiar and others reported in (1991) 1 SCC 48 and Vidyodaya Trust vs. Mohan Prasad R and others reported in (2008) 4 SCC 115 leave under Section 92 C.P.C. is a precondition for a suit which seeks reliefs set out under Section 92 C.P.C.. The prayer in the present suit extracted supra would show that the present suit would fall within the ambit of Section 92 C.P.C. In fact the plaintiffs themselves have treated the suit as one under Section 92 C.P.C. They have also successfully got the appeal filed before the District Court to be returned for presentation before this Court, contending that the suit is one under Section 92 C.P.C.

28. In the light of the above, I am of the considered opinion that the respondent is in fact estopped from now contending that the suit is not under Section 92 C.P.C. and hence, no leave is required. The learned Subordinate Judge had relied upon the judgement of the Division Bench of this Court in P.R.Pandurangan Chettiar and another vs. M.Balakrishnan and others reported in 2010 (4) CTC 202. The learned Judge held that no leave is required for the present suit. As I have already pointed out, the present suit arose under a different circumstances. The suit Trust was claimed to be a private trust intended for the benefit of a community and beneficiaries are specific individuals belonging to a community. It is on the said said premise, the Division Bench came to the conclusion that the suit itself is not under Section 92 C.P.C. and therefore, the contention of the defendants that leave is required under Section 92 CPC for institution of such a suit was rejected.

29. In the case on hand, the suit is instituted on behalf of the plaintiff Devasthanam which claimed to be represented the entire Sowrashtra community people and the prayer in the suit is to remove the trustees, Directors and Office Bearers of the defendants organisations. The second prayer that seeks a declaration that the suit property is absolutely belonging to the plaintiff and the right of management for the benefit of the entire Shevapet Sowrashtra community people is claimed. In the light of the prayer, I am constrained to hold that the suit in O.S.No.73 of 2010 is definitely a suit under Section 92 C.P.C and the same cannot be maintained without plaintiff having sought for and obtained leave of the Court prior to its institution. Therefore, the suit itself is liable to be dismissed on the ground of absence of leave. Therefore, Point No.1 is answered against the plaintiff/respondent.

Point No.2

30. I have already extracted the prayers in the suit. The 1st prayer seeks removal of entire trustees, Managing Committee members, Directors, Presidents, Secretary, cashier etc. of the defendant organisations. Except the two associations which are represented by their presidents, none of the Trustees, Managing Committee members, Directors, Presidents, Secretary and Cashier etc. of the defendants organizations have been made as parties. It is fundamental requirement that all persons who are likely to be affected by a decree should be made parties to the proceedings, which seeks their removal. It is also pleaded in the plaint that the defendants have formed two trusts without the knowledge and permission of the plaintiff Devasthanam. It is claimed that the funds are diverted and unlawfully transferred to the Trusts. It is also alleged fact that the Trusts were subsequently abolished. The documents filed in the suit namely, letters Ex.B11 and B-12 dated 21.04.2008 and 29.05.2008 respectively would show that the plaintiff had recognized the existence of the trusts. There is a specific reference to the Trusts in the said letters. The defendant would deny the claim of the plaintiff that the Trusts have been abolished subsequently. There is no evidence to support the claim of the plaintiff that the trusts have been abolished.

31. Surprisingly neither the Trusts nor the trustees have been made as parties to the suit. The other Office Bearers of the defendants have also not been made parties to the suit. The 1st prayer in the suit seeks removal of all persons including Trustees, Directors, Secretary, Cashier etc. without making them as parties to the suit. It is also not shown that a permission under Order 1 Rule 8 of the Civil Procedure Code has been obtained, since the 2nd prayer states that it is being made for the benefit of entire Sowrashtra Community people, I am therefore, of the considered opinion that the suit suffers the vice of non joinder of necessary parties.

32. Unfortunately, the learned Trial Judge has completely overlooked the absence of those persons who are sought to be removed. Mr.V.Raghavachari, learned counsel appearing for the respondent/plaintiff would contend that the question of non-joinder of necessary party was not raised. But if it is a non-joinder of necessary party, it will definitely affect the maintainability of the suit, even though the said question is not raised before the Trial Court. It is a trite proposition of law that no person can be condemned without being heard.

33. When the plaintiff seeks the relief for removal of all the office bearers it is the duty of the plaintiff to have impleaded them in the suit. Failure, in my opinion is not a curable defect and therefore, I conclude that the suit is bad

for non-joinder of necessary parties, namely the two trusts and the persons who are sought to be removed from Office. Therefore, I conclude that the suit in O.S.No.73 of 2010 is liable to be dismissed for want of prior leave under Section 92 of the Code of Civil Procedure and for non-joinder of necessary parties.

34. Though both the counsel had argued the appeal on merits also, since I have concluded that suit itself is not maintainable for want of leave under Section 92 C.P.C. and for non-joinder of necessary parties is fatal to the suit, I do not think that I will be justified in going into merits of the rival claims and to decide the rights of persons who are not before Court. If I venture in to that arena, I will be doing so in the absence of persons whose presence has been held to be necessary. Therefore, I am not going into merits of rival contentions relating to the nature, ownership of the defendant societies, or the existence or otherwise of the Trusts.

35. Since I have held that the suit is not maintainable, the findings of the learned Trial Judge on the disputes relating to the merits of the claims are set aside, since they have been rendered in the absence of proper parties and in the absence of proper leave under Section 92 of CPC. In the result, the appeal is allowed and the judgement and decree of the Trial Court stand set aside and O.S.No.73 of 2010 is dismissed for want of leave under Section 92 C.P.C. and for non-impleading of necessary parties. All other questions are left open to be decided in a proper proceedings, if the parties choose to launch any.

36. CMP.No.17259 of 2016: This application has been filed by the defendants/appellants seeking leave to file certain documents as evidence under Order 41 Rule 27 CPC. In view of the conclusion of mine that the suit itself is liable to be dismissed on the preliminary point, this application is dismissed as unnecessary and other civil miscellaneous petitions are closed. There will be no order as to costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

vk

To

The I Additional District Judge Salem.

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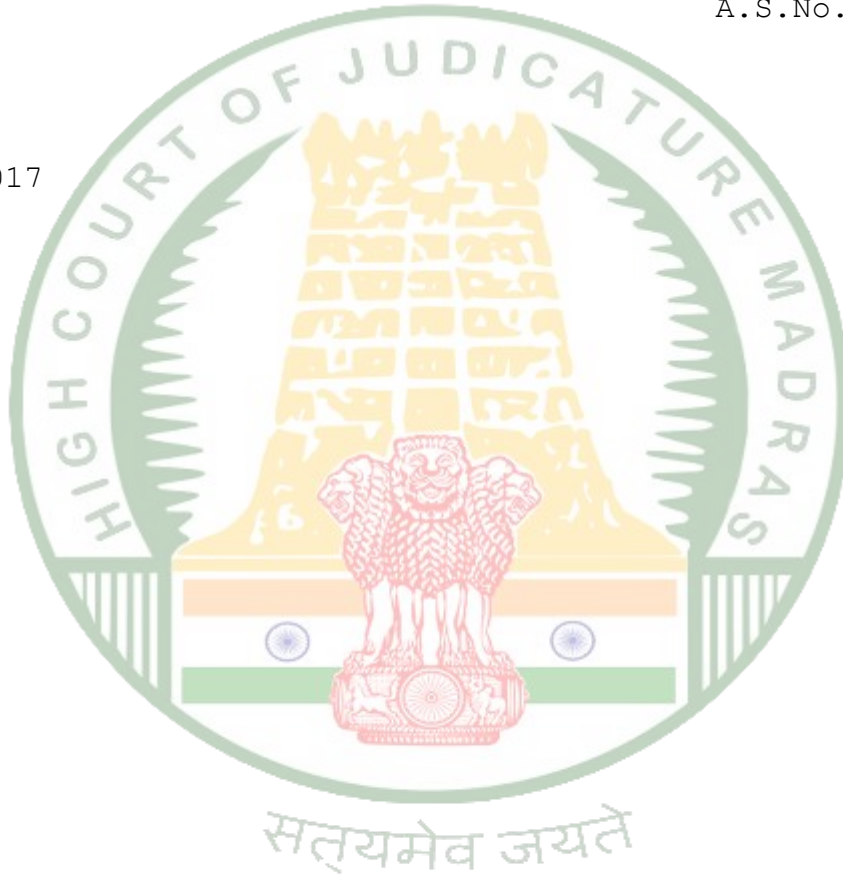
The Section Officer
VR Section High Court Madras

+2 ccs to Mr.Raghavachari Advocate sr 7625 & 7508

+1 cc to Mr.Shivakumaran Advocate sr 7534

A.S.No.500 of 2015

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