

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.07.2017

PRONOUNCED ON : 09.08.2017

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Second Appeal No.162 of 1998

1.Chinnamuniamma

2.Ramachandrappa ...Appellants/Defendants 1 & 2

Vs

1.Pattamma (Deceased) ..Respondents 1 & 2/Plaintiffs 2 & 3

2.Krishnappa

3.Veerappa

4.Minor Radhamma

5.Minor Kallappa

(Minors represented by their

father Veerappa)

...Respondents 3 to 5/Defendants 3 to 5

6.Parvathy

7.Krishnappa

...Respondents 6 & 7

(RR6 & 7 brought on record as Lrs
of the deceased R.1 vide order of
Court dated 18.06.2013 made in
C.M.P.No.925/2011)

Prayer:- Second Appeal has been filed under Section 100 of C.P.C., against the judgment and decree dated 26.06.1997 in A.S.No.46 of 1996, on the file of the learned Subordinate Judge, Hosur, in so far as it reverses the judgment and decree in O.S.No.3 of 1990 on the file of the learned District Munsif, Hosur dated 26.07.1995.

For Appellants : Mr.K.V.Ananthakrushnan

For RR.1, 2 6 & 7 : Mr.M.Muruganantham for
Mr.V.Ragavachari

For RR.3 to 5 : No appearance

JUDGMENT

The defendants in the suit are the appellants in this second appeal. The suit was laid by the plaintiffs on the premise that the first plaintiff - Chennamma is the first wife of Muniveerappa and the second plaintiff is the daughter born through the said wedlock. Since, Muniveerappa and Chennamma had no male issues, they adopted the third plaintiff - Krishnappa as their son. Later, Muniveerappa, married the first defendant - Chinnamuniamma. Through whom, he begotten, one son - Ramachandrappa and one daughter Seethamma.

2. After the death of Muniveerappa, the plaintiffs were driven out of the joint family residence and hence, notice was issued on 24.05.1974 seeking partition. Thereafter, a panchayat was held in the presence of elders wherein, the defendants agreed to give the share to the plaintiffs. As agreed, for few years, during the time of Ugadhi, they were sharing the yield from the property with the plaintiffs but, not given any share in the property as agreed. When the defendants tried to alienate the property to the 6th defendant, it was questioned by the plaintiffs. Thereafter, the defendants stopped sharing, even the yield from the joint family property with the plaintiffs. Hence, the suit for partition.

3. The defendants resisted the plaint on the ground that the first plaintiff is not the first wife of Muniveerappa. The plaintiffs are nowhere related to Muniveerappa. The first defendant - Chinnamuniamma, is one and only wife of Muniveerappa and the second defendant is their son. The third, fourth and fifth defendants are the legal representatives of Seethamma daughter of Muniveerappa.

4. According to the defendants, the plaintiffs never been in joint possession and enjoyment of the property. They have no right or title over the suit property as claimed by them. The alleged marriage between the first plaintiff and Muniveerappa is denied as false. The alleged adoption of the third plaintiff by Muniveerappa is false. Hence, the plaintiffs are not entitled for any relief.

5. Based on the pleadings of the rival parties, the trial Court framed the following issues:-

"1. Among the parties, in case the suit properties divided into 18 equal share and out of which, whether the plaintiffs are entitled for 9 equal shares ?

2. Whether the plaintiffs are entitled to claim 9/18 share over the suit properties ?

3. Whether the first plaintiff is the first wife of Muniveerappa ?; Whether the second plaintiff born to them and whether Muniveerappa adopted the third plaintiff ?

4. Whether, the plaintiffs are entitled to claim right over the suit properties and the suit filed by them is maintainable ?

5. Whether the adoption of the third plaintiff by Muniveerappa as claimed by the plaintiffs is true or not and if it is true whether the same is valid or not?

6. Whether notice dated 24.05.1974 is true or not ?

7. Whether the Sale deed dated 16.04.1971 executed by the second defendant is true or not ?

8. Whether the suit is barred in view of O.S.No.350/1988 pending in respect of the suit property ?

9. Whether the sale made by the defendants 1 & 2 in favour of 6th defendant is true and valid ?

10. What other reliefs the plaintiffs are entitled to?"

6. On behalf of the plaintiffs, five witnesses were examined and seven documents were marked. On behalf of the defendants, the second defendant was examined as D.W.1 and six exhibits were marked.

7. The trial Court after appreciating the evidence found that the plaintiffs have not proved the adoption of third plaintiff by Muniveerappa and also found that the plaintiffs have not proved that the first plaintiff is the first wife of Muniveerappa and the second plaintiff is the daughter born through the said wedlock. Therefore, while dismissing the suit, the trial Court found no fault in alienating the property by the second defendant in favour of the 6th defendant which, the second defendant has in his name purchased out of his personal income independently on 16.04.1971.

8. On appeal, the First Appellate Court, re-appreciating the evidence, has held that the plaintiffs have proved the long co-habitation of Muniveerappa with the first plaintiff and therefore, the first plaintiff is to be held as legally wedded wife of Muniveerappa and the second plaintiff is their legitimate daughter. However, the First Appellate Court has

concurred the view of the trial Court regarding the so-called adoption of the third plaintiff by the first plaintiff and Muniveerappa and rejected the claim in so far as the third plaintiff is concerned.

9.To arrive at the said conclusion, the First Appellate Court has heavily relied upon Exs.A.1, 5 & 6 which are sale deeds, where the second plaintiff has been described as daughter of Munveerappan. Taking note of the fact that these sale deeds are more than 30 years old, referring and taking note of Section 90 of the Indian Evidence Act, the First Appellate Court reversed the trial Court finding and held in favour of the plaintiffs.

10.Aggrieved by the reversal finding of the First Appellate Court, the Second Appeal is filed by the defendants. This Court while admitting the Second Appeal has formulated the following substantial questions of law:-

"1.Whether the learned First Appellate Judge is not correct in drawing the inference that the first plaintiff is the wife of late Munivirappa, when there is no evidence to prove the marriage between them ?

2.Whether the learned first Appellate Judge is not correct in concluding that the 2nd plaintiff is the daughter of late Munivirappa solely on the discriptions given in the sale deeds A1, A5 and A6 without production of birth certificate extract and other evidence ?"

11.The specific case of the plaintiffs is that, Muniveerappa married the first plaintiff, begotten a daughter who is the second plaintiff herein and adopted a male child who is the third plaintiff. It is to be noted that the third plaintiff is none other than the son of the second plaintiff. According to the plaintiffs, the first defendant is the second wife of Muniveerappa and the second defendant is the son born to Muniveerappa through his second wife Chinnamunima. To prove the factum of marriage, apart from the interested witnesses, namely, the second plaintiff, third plaintiff and the husband of the second plaintiff, two independent witnesses have been examined on the side of the plaintiffs. They have spoken about the marriage held between Muniveerappa and the first plaintiff at Sandapalli which is the native place of the first plaintiff.

Both P.Ws.4 & 5 have deposed that they attended the marriage of Muniveerappa with first plaintiff held at Sandapalli. The defendants have discredited the evidence of P.W.4 by suggesting to him that there is a suit against him filed by the second defendant and it is pending in the same Court in O.S.No.350/1988. Therefore, there is animosity between him and the second defendant, hence he is falsely deposing against the defendants before the Court.

12.A close reading of the testimony of these two witnesses (P.Ws.4 & 5), no doubt they have spoken about the factum of marriage held between Muniveerappa and the first plaintiff. However, they have not whispered about the continuous cohabitation of Muniveerappa with the first plaintiff or the birth of the second plaintiff through their continuous and long cohabitation. Their evidence is conspicuously silent about these vital facts. During cross examination of P.W.1, it was suggested by the defendant Counsel that the first plaintiff is not the wife of Muniveerappa but a concubine to Muniveerappa. The said suggestion has been denied by the witnesses.

13.Taking note of this suggestion, the First Appellate Court has arrived at a conclusion that there is an admission on the part of the defendants that the first plaintiff was a concubine of Muniveerappa and therefore, she and her daughter (plaintiffs 1 & 2) are entitled for 2/10 share in the property left behind by Muniveerappa. Further, taking note of the recital found in Ex.A.1, a certified copy of the sale deed dated 21.07.1958, and two other sale deeds marked as Exs.A.5 & A.6, the First Appellate Court has concluded that these three documents are 30 years old documents where the second plaintiff has been described as daughter of Muniveerappa. In so far as Ex.A.1 is concerned, the purchaser being none other than Muniveerappa, the Court has held that the relationship of father and daughter is established through this document. The Court has gone on the presumption that the content in these documents are proved.

14.The First Appellate Court, while disbelieving the factum of alleged adoption of the third plaintiff as son of Muniveerappa, accepted the plea of the plaintiffs regarding the relationship between Muniveerappa and the first plaintiff and the claim of the second plaintiff Pattamma as the daughter of Muniveerappa born through the first plaintiff.

15.Factum of marriage can be proved either through the witnesses of the said marriage solemnized, in the manner known to law, or, by proof of long cohabitation as husband and wife. In this case, though the plaintiffs have examined P.Ws.4 and 5 who are independent witnesses, to vouchsafe the solemnization of

marriage, the trial Court rejected their evidence as not worth accepting. Whereas, the First Appellate Court has relied upon their evidence to presume long cohabitation.

16. In this regard, it is relevant to refer two judgments of the Hon'ble Supreme Court, which are extracted below:-

(i) In B.S.Lokhande v. State of Maharashtra (1965(2) SCR 837) wherein, the Hon'ble Supreme Court has held as follows:-

"Prima facie, the expression 'whoever ... marries' must mean 'whoever ... marries validly' or 'whoever ... marries and whose marriage is a valid one'. If the marriage is not a valid one, according to the law applicable to the parties, no question of its being void by reason of its taking place during the life of the husband or wife of the person marrying arises. If the marriage is not a valid marriage, it is no marriage in the eye of law. The bare fact of a man and a woman living as husband and wife does not, at any rate, normally give them the status of husband and wife even though they may hold themselves out before society as husband and wife and the society treats them as husband and wife."

(ii) In Badri Prasad vs. Dy. Director of Consolidation and Ors (1978 (3) SCC 527) wherein, it has been held as follows:-

"For around 50 years, a man and a woman, as the facts in this case unfold, lived as husband and wife. An adventurous challenge to the factum of marriage between the two, by the petitioner in this special leave petition, has been negatived by the High Court. A strong presumption arises in favour of wed-lock where the partners have lived together for a long spell as husband and wife. Although the presumption is rebuttable, a heavy burden lies on him who seeks to deprive the relationship of legal origin. Law leans in favour of legitimacy and frowns upon bastardy. In this view, the contention of Shri Garg, for the petitioner, that long after the alleged marriage,

evidence has not been produced to sustain its ceremonial process by examining the priest or other witnesses, deserves no consideration. If man and woman who live as husband and wife in society are compelled to prove, half a century later, by eye-witness evidence that they were validly married, few will succeed. The contention deserves to be negatived and we do so without hesitation. The special leave petitions are dismissed"

17. So it may be difficult in proving the marriage but is long cohabitation is true, it could be easily proved through telltale evidence. From the admitted facts, it could be seen that the second defendant who is the son of Muniveerappa and first defendant, was born in the year 1948. The solemnization of marriage and validity of that marriage is not disputed. For all legal purposes, Chinnamunima is the legally wedded wife of Muniveerappa. To prove a marriage alleged to have solemnized earlier to this marriage, there should be strong and cogent evidence.

18. At the time of filing the suit in the year 1990, the second plaintiff was about 54 years old. Therefore, if one go by the statement of the plaintiffs, the marriage between the first plaintiff with Muniveerappa ought to have taken place before 1935. If we look into the evidence of P.W.4 - (Lagumappa), when he gave evidence on 11.07.1995, he has stated his age is 82 years and in his evidence, he has deposed that when he attended the marriage of first plaintiff and Muniveerappa, he was 16 years old. It means, the probable year of marriage according to this witness must be around 1928 or 1930.

19. It is admitted by both the parties that Muniveerappa died in the year 1974. The contention of the plaintiffs is that till the death of Muniveerappa, the plaintiffs were living along with Muniveerappa and the defendants. If that is correct, the cohabitation of Muniveerappa with the first plaintiff has lasted for nearly 40 to 45 years. Any man or woman who have lived together or co-habitated together for more than 40 years, there must be sufficient evidence to substantiate the same. Unfortunately, in this case, the witnesses examined on behalf of the plaintiffs have not spoken about the cohabitation of the first plaintiff with Muniveerappa. They have only spoken about the attending of marriage of first plaintiff and Muniveerappa. Further, there is no whisper in their evidence to infer or presume that Muniveerappa and first plaintiff lived together as husband and wife in the eye of general public.

20. Further, if we look at Section 50 of the Indian Evidence Act, which deals with the relevancy of opinion given by a person relating to relationship it reads as under:-

"50. Opinion on relationship, when relevant.-When the Court has to form an opinion as to the relationship of one person to another, the opinion, expressed by conduct, as to the existence of such relationship, or any person who, as a member of the family or otherwise, has special means of knowledge on the subject, is a relevant fact: Provided that such opinion shall not be sufficient to prove a marriage in proceedings under the Indian Divorce Act, 1869 (4 of 1869) or in prosecutions under section 494, 495, 497 or 498 of the Indian Penal Code (45 of 1860). Illustrations

(a) The question is, whether A and B were married. The fact that they were usually received and treated by their friends as husband and wife, is relevant.

(b) The question is, whether A was the legitimate son of B. The fact that A was always treated as such by members of the family, is relevant. Comments Contradiction in evidence of relationship of witness of triffling nature, not material in a partition suit; "

21. So any person who has personal knowledge or by conduct can depose about the relationship. In this regard, when a similar case arose before this Court, way back in the year 1926, a Division Bench of this Court in *Seshammal and others v. Kuppanaiyyangar and another* (AIR 1926 Madras 475) held that :-

"Amir Ali and Woodroffe point out in their book on Evidence, Section 50 enacts a rule different from the law in England. According to English Law he says : "General reputation is admissible to establish the fact of parties being married. Accordingly, general evidence of reputation in the neighbourhood, even when unsupported by facts, or when partially contradicted by evidence of a contrary repute, has been held receivable in proof of marriage. The present section is limited to opinion as expressed by conduct, and there appears to

be no other provision in the Act, under which such evidence of general reputation would be receivable. " We cannot construe the judgment of their Lordships of the Judicial Committee as laying down a rule of law completely at variance with the clear rule of the Indian Evidence Act.

4. This then is all the oral evidence in support of the pedigree put forward by the plaintiffs. It is noticeable that the 1st plaintiff has not chosen to go into the box to support the case set up."

In this case also, the first plaintiff has not mounted the witness box to speak about the marriage or long cohabitation with Muniveerappa.

22.Regarding Exs.A.1, A.5 & A.6, it is to be pointed out that A.1 being a certified copy of the registered sale deeds, Section 90 of the Indian Evidence Act, in a strict sense is not applicable at all. As far as Ex.A.1 is concerned, being a certified copy and secondary evidence, its proof is to tested as per Section 65 of the Indian Evidence Act. As far as Exs.A.5 & A.6 are concerned, they are original documents written in Telugu translated into Tamil. No doubt, they are 30 years old document. Under Section 90 of the Indian Evidence Act, what could be presumed is the execution alone and not its content. Ex.A.1, the second plaintiff is the vendor and the purchaser is Muniveerappa. In the other two documents, Ex.A.5 & A.6, the second plaintiff is one of the party to the document and the other parties are not related to this case.

23.In this contest, it is useful to extract Sections 90 and 91 of the Indian Evidence Act which are reads as follows:-

"90. Presumption as to documents thirty years old.—Where any document, purporting or proved to be thirty years old, is produced from any custody which the Court in the particular case considers proper, the Court may presume that the signature and every other part of such document, which purports to be in the handwriting of any particular person, is in that person's handwriting, and, in the case of a document executed or attested, that it was duly executed and attested by the persons by whom it purports

to be executed and attested.

91. Evidence of terms of contracts, grants and other dispositions of property reduced to form of documents.—When the terms of a contract, or of a grant, or of any other disposition of property, have been reduced to the form of a document, and in all cases in which any matter is required by law to be reduced to the form of a document, no evidence shall be given in proof of the terms of such contract, grant or other disposition of property, or of such matter, except the document itself, or secondary evidence of its contents in cases in which secondary evidence is admissible under the provisions hereinbefore contained.—When the terms of a contract, or of a grant, or of any other disposition of property, have been reduced to the form of a document, and in all cases in which any matter is required by law to be reduced to the form of a document, no evidence shall be given in proof of the terms of such contract, grant or other disposition of property, or of such matter, except the document itself, or secondary evidence of its contents in cases in which secondary evidence is admissible under the provisions hereinbefore contained."

Exception 1.—When a public officer is required by law to be appointed in writing, and when it is shown that any particular person has acted as such officer, the writing by which he is appointed need not be proved.

Exception 2.....

Explanation 1.....

Explanation. 2.....

Explanation 3.—The statement, in any document whatever, of a fact other than the facts referred to in this section, shall not preclude the admission of oral evidence as to the same fact."

24.The learned counsel for the respondents/plaintiffs submitted that the defendants have admitted Ex.A.1 sale deed.

Therefore, no oral evidence contra to the content of the document is permissible and having admitted the recital found there in describing Muniveerappa as father of the second plaintiff, same cannot be disputed by the defendants.

25.If we look into Sections 90 & 91 of the Indian Evidence Act, we find that any ancient document is presumed to be genuine in respect of the hand writing and signature found in the document since, it is difficult to procure the parties to the document and get their testimony after 30 years. But, the law is well settled that the said presumption is only in respect of signature and handwriting of the person and not in respect of the content of the document.

26.So far as Section 91 of the Indian Evidence Act is concerned, it says if the terms of contract or of a grant or of any other dispossession of property is reduced into writing to form a document, no evidence shall be given in proof of terms of such contract grant or other dispossession of property or of such matter except the document itself. The explanation (3) to Section 91 of the Indian Evidence Act, makes very clear that the statement in the said document whatever of a fact other than the facts referred to in Section shall not preclude the admission of oral evidence as to the same facts. Thus, it is made clear that the restriction imposed under Section 91 of the Indian Evidence Act, is only in respect of terms of contract or of a grant or of a fact any other dispossession of property but not any other facts referred to in the said document.

27.Therefore, it is necessary for the plaintiffs who pleads a particular relationship with Muniveerappa to prove positively with appropriate evidence. When there is no ocular or documentary evidence, which could be relevant, to establish the relationship mere unproved recital found in a document is insufficient. The witnesses P.W.4 & P.W.5 relied by the plaintiffs had failed to speak about the relationship as found in Exs.A.1, A.5 & A.6. The content of the said document just because it is more than 30 years old, is not to be taken as proof or sufficient to take as a fact proved.

28.In this connection, it is relevant to quote the portion of the judgment rendered by a Division Bench of this Court in Raghuvir Kumar v. Shanmughavadivu (AIR 1971 Madras 330) which say as under:-

"30. In Nagarajamma v. State Bank of India, a view has been taken that where a person is already married, no presumption of second marriage arises by reason of long

cohabitation though such presumption may be raised in the case of first marriage. Reliance was also placed on the unreported decision in S. A. No. 592 of 1921 where this Court had expressed a similar view. The learned Judge of the Andhra Pradesh High Court in the above decision held that there is no evidence as to the factum of marriage and the mere fact that the alleged wife was described as a wife in some of the documents ranging on 1953 did not establish that she is the lawfully wedded wife of one Ramaswami and refused to invoke the presumption of marriage on the facts of that case. In passing they said that the presumption cannot be invoked in case of second marriage. We are not in a position to express our agreement with the view expressed in the above decision that the presumption of marriage cannot be raised in case where the first marriage is subsisting. In a society where second marriage is not prohibited under the statute or under the customary law, it is always open for any person to marry a second wife if he so desires and if he goes through a form of marriage and lives with the other party as husband and wife, we find no obstacle to the presumption being raised from the fact of long cohabitation and repute. Of course, if there is statute such as the Madras Bigamy Prevention Act, 1949 or the Hindu Marriage Act, 1955, a second marriage cannot be presumed from long cohabitation and repute, as such a marriage cannot be recognised in law. In our opinion the mere fact that there was an earlier marriage subsisting in this case, it cannot be considered sufficient to rebut the presumption of a marriage arising out of long cohabitation and repute."

29. Therefore, the plaintiffs have failed to prove either the factum of marriage held between Muniveerappa and the first plaintiff or long cohabitation between them through acceptable evidence. Though, it is pleaded that the Muniveerappa and the first plaintiff lived for more than 40 years as husband and wife, the plaintiffs are not able to place before the Court any evidence to show semblance for cohabitation.

30.Further, the adventurous plea of "adoption of third plaintiff" by Muniveerappa also failed the test of proof. To add, though, the plaintiffs have issued a notice claiming status of wife and daughter as early as 1974 having not sought for any division or claim over the property till 1990. The reasons stated by the plaintiffs that there was panchayat and pursuant to the panchayat, the defendants promised to give share also not proved through oral or documentary evidence. Therefore, the excuse for belated claim also appears to be an after thought.

31.As stated by the Division Bench of this Court in Seshammal and others v. Kuppanaiyyangar and another (cited supra), the conduct of the parties is very relevant to infer long cohabitation. When the plaintiffs who pleads marriage and long cohabitation is fail to adduce evidence sufficient to infer these two aspects are bound to fail.

32.In Gokul Chand vs. Parvin Kumari (AIR 1952 SC 231), the Hon'ble Supreme Court has held as under:-

".....It is well-settled that continuous cohabitation for a number of years may raise the presumption of marriage. In the present case, it seems clear that the plaintiff and Ram Piari lived and were treated as husband and wife for a number of years, and, in the absence of any material pointing to the contrary conclusion, a presumption might have been drawn that they were lawfully married. But the presumption which may be drawn from long cohabitation is rebuttable, and if there are circumstances which weaken or destroy that presumption, the Court cannot ignore them....."

33.The learned counsel for the appellants submitted that mere statement that first plaintiff and Muniveerappa married and living together is not sufficient to establish the marriage without any pleading, how where and when the marriage was solemnized.

34.Considering the rival submissions made by the learned counsel and the judgments relied on by them, in the light of the facts of this case, it could be seen that the marriage between the first defendant and Muniveerappa is a valid marriage solemnized and recognised even by the plaintiffs. The alleged marriage of Muniveerappa with the first plaintiff, has happened before 1955 prior to monogamous marriage became law,

governing Hindus. Therefore, to satisfy Whether there was marriage solemnized between the first plaintiff and Muniveerappa, this Court finds that except the evidence of P.Ws.4 and 5 (oral evidence), there is no satisfactory material to prove the solemnization of marriage. Even the evidence of P.Ws.4 & 5 are not to the point of solemnization of marriage. That is the reason why while the trial Court has totally disbelieved the marriage, the First Appellate Court has relied upon the long cohabitation of Muniveerappa and the first plaintiff as husband and wife to grant the relief to the plaintiffs. However, even for proving long cohabitation, to presume marriage, the plaintiffs have not let in any evidence. Both P.Ws.4 & 5 have not spoken even a single word about the joint living or cohabitation and the birth of the second plaintiff through the said cohabitation.

35.The only evidence which could be relied on by the plaintiffs is Exs.A.1, A.5 & A.6. They are admittedly, 30 years old document. But, what is dispensed under Section 90 of the Indian Evidence Act, is the proof of signature and handwriting found in the document but, not the content. To prove the content of the document, there must be independent witness. In this case, the content which relied by the learned counsel for the respondents/plaintiffs is the description of the second plaintiff as daughter of Muniveerappa. This description is nothing to do with the terms of contract or grant. Therefore, mere admission or alienation of the property under Ex.A.1 does not mean that the defendants have admitted the entire content of the document. By proving the document is 30 years old and produced from proper custody, 'what is presumed is that the document was executed by the person by whom it purports to have been executed and attested. It has been exempted from the requirement of proof of document as required under Sections 67 & 78 of the Indian Evidence Act. But the presumption of signature and handwriting does not ipso facto a proof of whatever stated in the document. The other part of the document has to be proved independently and mere production of document is not a sufficient proof for proving its content.

36.Therefore, when there is no evidence to show long cohabitation and when there is no evidence to show second plaintiff born to Muniveerappa except self serving documents and self serving testimony of the interested persons, a presumption which is rebuttable cannot be drawn. In this case, the recitals found in Exs.A.1, A.5 & A6 are not proved. Therefore, through these documents, a presumption of paternity or long cohabitation cannot be drawn.

37.In view of the foregoing discussions, the judgment and

decree passed by the First Appellate Court is liable to be set aside and the substantial questions of law framed in this second appeal are answered in favour of the appellants.

38.In the result, the second appeal is allowed and the decree and judgment passed by the First Appellate Court is set aside and the decree and judgment passed by the trial Court is restored. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Subordinate Judge,
Hosur.

2.The District Munsif,
Hosur.

+1cc to Mr.K.V.Ananthakrushnan, Advocate sr,58330

+1cc to Mr.V.Raghavachari, Advocate sr.57167

Judgment made in
Second Appeal No.162 of 1998

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ss(25/9/2017)

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