

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.10.2017
PRONOUNCED ON : 05.01.2018

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

S. A.Nos.488 & 489 of 2001

Ramdoss ... Appellant/1st Plaintiff in S.A.No.488 of 2001
..Appellant/1st Defendant in S.A.No.489/2001.

Vs.

Subbayyan ... Respondent/Defendant in
S.A.No.488 of 2001

JagannathanRespondent/Plaintiff in
S.A.No.489 of 2001

Second Appeal is filed under Section 100 of Civil Procedure Code, against the Judgments and decrees dated 27.09.2000 made in A.S.Nos.13 of 2000 & 12 of 2000 respectively on the file of the Additional Subordinate Court, Myladuthurai reversing the judgments and decrees dated 30.11.1999 made in O.S.Nos.355 of 1995 & 375 of 1995 respectively on the file of the District Munsif Court, Sirkali.

For Appellant : Mr.K.Srinivasan
in both S.As. Senior Counsel
for Mr.P.Veeraraghavan

For Respondents : Mr.A.Muthukumar
in both S.As.

COMMON JUDGMENT

Challenge in these second appeals are made against the the common Judgment and decrees dated 27.09.2000 made in A.S.Nos.13 of 2000 & 12 of 2000 respectively on the file of the Additional Subordinate Court, Myladuthurai reversing the common judgment and decrees dated 30.11.1999 made in O.S.Nos.355 of 1995 & 375 of 1995 respectively on the file of the District Munsif Court, Sirkali.

2. O.S.No.355 of 1995 is laid by the appellant and one Arputharaj against the respondent in S.A.No.488 of 2001 for the relief of injunction.

3. O.S.No.375 of 1995 is laid by the respondent in S.A.No.489 of 2001 against the appellant and one A.Ganesan for the reliefs of recovery of possession and future profits.

4. The case of the appellant, in brief, is that the suit property originally belonged to Padmavathi W/o. Venugopala Naidu and on her death, the suit property was inherited by Venugopala Naidu and the appellant is the brother's son of Venugopala Naidu and the appellant is having two other brothers viz., Mohan and Kannan and Venugopala Naidu inducted Arputharaj as a tenant in the suit property and also directed Arputharaj to attorn the tenancy to the appellant and his brothers and pay the rent to them and under the above said arrangement, the tenant Arputharaj was paying the rent to the appellant. While so, the respondent Subbaiyan issued a notice to Arputharaj claiming that he is the owner of the suit property under a Will alleged to have been executed by Venugopala Naidu on 19.11.1987 enclosing the xerox copy of the alleged Will. However, Venugopala Naidu had never executed any such Will and the truth, validity, execution and the attestation of the said Will has been denied and the respondent Subbaiyan is not the adopted son of Venugopala Naidu and no adoption took place at any point of time and the respondent Subbaiyan had not rendered any service to Venugopala Naidu and it is false to state that Venugopala Naidu had bequeathed the property in favour of the respondent Jagannathan, who is the son of the respondent Subbaiyan and the Will never came into existence. It is only the plaintiff, who has been in possession and enjoyment of the suit property through Arputharaj, the tenant and a suitable reply has been sent to the respondent Subbaiyan and after the exchange of notices, the respondent Subbaiyan demanded Arputharaj to vacate the premises and hand over the possession and also made attempts to take forcible possession of the suit property which the respondent Subbaiyan is not entitled to do so. The appellant and his brothers succeeded to the suit property and accordingly, on behalf of his brothers, the appellant had instituted the suit and inasmuch as the respondent Subbaiyan illegally attempted to dispose the tenant Arputharaj and thereby interfere with the possession of the appellant in respect of the suit property, the appellant had been necessitated to lay the suit for permanent injunction.

5. The case of the respondents in common is that the suit laid by the appellant and Arputharaj is not maintainable either in law or on facts. The respondent Subbaiyan was born in Malaysia and the deceased Venugopal Naidu was employed in Malaysian Railway and the parents of the respondent Subbaiyan were the neighbours to the deceased Venugopal Naidu and during the second world war, the respondent Subbaiyan's parents became the victims of the Japanese bomb-shell leaving him as an orphan

and accordingly, the deceased Venugopal Naidu, who was residing in the neighbouring house, took Subbaiyan to his residence and brought him to India and brought him up completely and Subbaiyan was educated by Venugopal Naidu by admitting him in the School at Sirkali and also performed his marriage with his brother-in-law's daughter viz., Geetha and on 19.11.1997 Venugopal Naidu in a sound state of mind and body had executed his last Will, which is duly attested and registered and under the said Will, the suit property was bequeathed to the minor son of Subbaiyan viz., Jagannathan and Subbaiyan was appointed as the guardian for the minor Jagannathan under the said Will and while Venugopal Naidu was alive, he had inducted Arputharaj as a tenant in the suit property and accordingly, when the Will was executed by Venugopal Naidu, he had directed Arputharaj to attorn the tenancy in favour of Subbaiyan, the respondent and however, Arputharaj joined hands with the appellant and laid the suit with false allegations and after the demise of Venugopal Naidu on 12.02.1989, the Will had come into force and it is only Jagannathan S/o. Subbaiyan, who is the owner of the suit property and hence, Arputharaj is liable to pay the rent to the minor son Jagannathan and hence, it is only Jagannathan, who is the owner of the suit property and hence, the relief of permanent injunction cannot be granted in favour of the appellant and Arputharaj as claimed by them.

6. In the additional written statement filed by Subbaiyan, it is pleaded that he is the adopted son of Venugopala Naidu, he having been adopted by him during his child hood and accordingly, brought up as his adopted son and declared him as his son in the SSLC certificate also and accordingly, asserted the same in the Will dated 19.11.1987 duly executed and registered by him and thus, Subbaiyan is the adopted son of Venugopala Naidu and Venugopala Naidu had bequeathed the vacant site of the first item of the suit property to minor Jagannathan and the adopted son Subbaiyan became entitled to the second item of the suit property and the appellant has no manner of right or interest over the suit property and hence, the suit is liable to be dismissed.

7. Based on the Will dated 19.11.1987, it is seen that minor Jagannathan represented by his father and next friend Subbaiyan had laid the suit in O.S.No.375 of 1995 claiming the reliefs of recovery of possession and future profits as regards the suit property from the appellant and one A.Ganesan. Impugning the alleged Will, the appellant and one A. Ganesan had contested the suit laid by minor Jagannathan in O.S.No.375 of 1995.

8. It is found that both the suits were jointly tried and accordingly, common evidence was recorded in O.S.No.375 of 1995 and in support of the case of the respondents, PWs1 to 4 were

examined and Exs.A1 to 14 were examined. On the side of the appellant, DW1 has been examined and Exs.B1 to B7 were marked.

9. On a consideration of the oral and documentary evidence adduced by the respective parties and the submissions made, the trial Court was pleased to decree the suit in O.S.No.355 of 1995 and dismiss the suit in O.S.No.375 of 1995. On appeals, from the common judgment and decrees passed in the above said suits, the first appellate Court was pleased to set aside the judgment and decrees of the trial Court and accordingly, by allowing the appeals, decreed the suit in O.S.No.375 of 1995 and dismissed the suit in O.S.No.355 of 1995. Impugning the same, the present second appeals had been preferred.

10. At the time of admission of the second appeals, the following substantial questions of law were formulated for consideration:

" (i) In the absence of evidence before the lower Appellate Court that the Will Ex.A5 dated 19.11.1987 was executed by the deceased testator and attested by PW2 and PW3 in conformity with the terms of Section 68 of the Indian Succession. Whether the finding of the said Court that the Will Ex.A5 true is substantiable under Law?

(ii) Assuming without conceding that the Will Ex.A5 dated 19.11.1987 was the last Will and testament of the deceased testator in the absence of any disposition in regard to the suit property in favour of either Subbayyan or his son Jagannathatn, the lower appellate Court was right in law in rejecting the right, title and interest put forward by the appellant to the suit property as the lawful heir of the deceased owner Venugopal Naidu?

11. It is not in dispute that the suit property originally belonged to Venugopal Naidu. It is also not in dispute that Venugopal Naidu's wife Padmavathi had predeceased him and they had no issue. It is also not in dispute that Venugopal Naidu worked at Malaysian Railways and there from, brought the respondent Subbaiyan along with him to Sirkali. It is also not in dispute that it is only Venugopal Naidu, who had admitted the respondent Subbaiyan in the school at Sirkali and also not in dispute that it is only Venugopal Naidu, who had performed the marriage of the respondent Subbaiyan with his brother-in-law's daughter, Geetha. It is also not in dispute that the respondent Subbaiyan had been living with Venugopal Naidu till his death and not in dispute that the appellant Ramadoss is the brother's son of Venugopal Pillai and he has two other brothers viz.,

Mohan and Kannan and they are living separately, It is also not in dispute that Venugopal Naidu had died at Sirkali on 12.02.1989.

12. Keeping in mind the above said indisputable facts, we will have to proceed to determine the issues involved in the suits. After hearing the submissions put forth by the respective counsel and also on the perusal of the judgments and decrees of the Courts below, it is found that two issues mainly are required to be adjudicated for the disposal of the second appeals: one is whether the Will dated 19.11.1987 marked as Ex.A5 said to have been executed by Venugopal Naidu is true, valid and binding upon the appellant and whether the respondent Subbaiyan is the adopted son of Venugopal Naidu.

13. As regards the Will dated 19.11.1987 marked as Ex.A5, according to the respondents, the same had been executed by Venugopal Naidu in a sound state of mind while he was hale and healthy in the presence of the witnesses and the said Will is a registered one and under the said Will, he had bequeathed his property in favour of the respondent Jagannathan and it is the further case of the respondents that as per the said Will, Jagannathan the respondent became entitled to the property bequeathed to him and the remaining properties of the deceased Venugopal Naidu have been inherited by the respondent Subbaiyan as his adopted son. According to the respondent Subbaiyan, he is the adopted son of the deceased Venugopal Naidu and accordingly, brought up by him from his childhood and adopted by him and his marriage was also celebrated by the deceased Venugopal Naidu and accordingly, Venugopal Naidu had been living with him till his death and thus, it is stated that he is the adopted son of the deceased Venugopal Naidu. Inasmuch as the above said two factors had been seriously contested by the appellant, it is found that the respondents are bound to establish the genuineness of the Will marked as Ex.A5 and also that Subbaiyan was validly taken in adoption by Venugopal Naidu as pleaded by them.

14. The Will in question has been marked as Ex.A5. Inasmuch as Ex.A5 has been impugned by the appellant, it is seen that the same has to be established to be a true and genuine document and that the same was executed by the deceased Venugopal Naidu in a free state of mind and duly attested as per the provisions contained in Section 63 (c) of the Indian Succession Act and Section 68 of the Indian Evidence Act. In order to establish the Will Ex.A5 as per the requirements of law, it is found that the respondents have chosen to examine the two attestors of the said Will as PW2 and PW3 and the scribe of the said Will as PW4. PW2 Sundararajulu, the attestor has testified that he knew Venugopal Naidu and that, he had attested

the Will executed by the deceased Venugopal Naidu and the said Will has been written in the Sub-Registrar Office, Sirkali and it is Venugopal Naidu, who took him for the purpose of attesting the Will and along with him the attester Alwar had also come and signed the Will and he also resides in the same street, where Venugopal Naidu was living and the Will was written by one Venugopal, the retired Sub-Registrar and the Will was executed by Venugopal Naidu and he had signed in the Will and at that time, PW2 and the other attester had also witnessed the same and when they had attested the Will, the same was witnessed by Venugopal Naidu and the contents of Ex.A5 Will was stated by Venugopal Naidu and it had been registered on the same date of the execution and even in the Registrar office, he was the identifying witnesses and Ex.A5 is the Will written by Venugopal and the Will Ex.A5 contains the signature of Venugopal Naidu and his signature and also the signature of Alwar examined as PW3. It is thus found that as rightly put forth by the counsel appearing for the respondents, PW2 has clearly deposed about the Will in question and his testimony satisfies all the requirements of law for the proof of Will. Despite the cross examination, nothing has been culled out from the mouth of PW2, to disbelieve his version as regards the execution of the Will Ex.A5 by Venugopal Naidu, the attestation of the same by him and the other witness Alwar and the registration of the same and it is thus found that the respondents have clearly established the veracity of the Will Ex.A5 through the unimpeachable evidence of PW2.

15. The other attesting witness Alwar examined as PW3 also in his evidence has deposed that he resides in the same street, where, Venugopal Naidu was residing and he is a retired bank employee and Venugopal Naidu was a pensioner and Subbaiyan is the adopted son of Venugopal Naidu and Venugopal Naidu used to receive the pension through his bank and Venugopal Naidu had executed the Will dated 19.11.1987 and the Will was written by the retired Sub-Registrar Venugopal and at that time, he and the witness Sundararajulu PW2 were present and the contents of the Will were dictated by Venugopal Naidu and he had executed the Will in their presence and the Will executed by Venugopal Naidu had been attested by him, which is marked as Ex.A5 and at the time of execution of the Will, Venugopal Naidu was in a hale and healthy condition and in a sound state of mind and he was playing batmitton till his retirement. It is further seen that PW3, the attester had also testified about the execution of the Will by Venugopal Naidu, in all aspects, as required to be made under the provisions of law above adverted to and it is found that, despite cross examination, nothing has been elucidated from his mouth to discard his testimony with reference to his statements about the Will Ex.A5 executed by Venugopal Naidu. Therefore, as rightly argued by the counsel appearing for the respondents, it is seen that even the testimony of PW3 also

satisfies the requirements of law as regards the proof of the Will Ex.A5.

16.No doubt, as rightly put forth by the counsel for the appellant, there are certain discrepancies in the deposition of PWs 2 & 3 during the course of cross examination and it is found that the said discrepancies weighed with the mind of the trial Court judge and accordingly, pointing to the above said discrepancies, it is contended on his behalf that the trial Court has rightly disbelieved the genuineness of the Will and therefore, according to him, the said determination of the trial Court does not call for any interference and therefore, it is argued that the first appellate Court has erred in dislodging the well-considered reasonings and findings of the trial Court as regards the genuineness of the Will Ex.A5. In such circumstances, it has to be seen whether the discrepancies, which had weighed by the trial Court Judge, are sufficient to disturb the testimonies of PW2 & PW3 as regards the genuineness of the Will.

17. PW2 in his evidence during the course of cross examination has deposed that Venugopal Naidu, when proceeding to Sub Registrar office, had parked his car at his residence and picking him and the witness Alwar along with him and thereafter, the Will had been written and further, he has also testified that Venugopal Naidu dictated the contents of the Will and the same had been written by the scribe in a white paper as a draft and thereafter, the original has come to be executed in a stamp paper. Per contra, PW3 in his evidence during the course of cross examination has deposed that there was no draft prepared at the time of execution of the Will and the original Will had been written directly and the Will had been written before 10.30 a.m. The above said discrepancies in the evidence of PW2 & PW3 are found to have been observed in the decision of the trial Court Judge and accordingly, the trial Court Judge had found that inasmuch as the above said contradictions are material and significant as to when and where, in what manner, the Will has come to be executed and had been contradictorily deposed by PWs 2 & 3, the trial Court Judge did not give credence to the aspects of their other part of the evidence as regards the due execution of the Will by Venugopal Naidu in the presence of the attestors and the due attestation of the attestors in the Will in the presence of the testator Venugopal Naidu etc., However, the first appellate Court, on a re-appreciation of the evidence placed in the matter, found that the above said contradictions found in the evidence of PWs2 & 3 are not significant enough to characterize their testimonies as deficient or lacking in the eyes of law and according to the first appellate Court, the above said contradictions only pertain to certain allied facts about the execution of the Will and not as to the due execution of the Will by the testator and the due attestation of the same

by the attestors concerned. Further according to the first appellate Court, there are bound to be certain discrepancies in the deposition of the attestors, who were examined nearly after 10 to 12 years after the execution of the Will Ex.A5 and due to the time factor, the memories of the witnesses are not excepted to remain constant and therefore, due to passage of time, such discrepancies do occur and in such view of the matter, according to the first appellate Court, due allowances should be given to the absence of memory of the witnesses on account of the passage of time and in such view of the matter, according to the first appellate Court, as the above said discrepancies only pertain to certain allied facts about the execution of the Will and not directly touching upon due execution of the Will in the manner known to law, discredited the above said discrepancies and found the evidence of PWs2 and 3 to be reliable, convincing, trustworthy in other material aspects and accordingly, accepted their testimonies and upheld the truth and genuineness of the Will in question Ex.A5. It has therefore to be seen whether the above approach of the first appellate Court is acceptable as per law.

18. In this connection, as rightly argued by the counsel for the respondents, it is seen that the discrepancies pointed out by the trial Court are found to be not touching upon the points as to the due execution of the Will Ex.A5 by the testator and the due attestation of the same by the attestors as per the requirements of law. On the other hand, it is found to be connected with certain allied facts when the Will had come to be executed and in such view of the matter, the same being not directly connected with the proof of Will as per the requirements of law, it is found that as rightly determined by the first appellate Court, it is seen that the trial Court has made a mountain out of a molehill by seriously taking into account of the above said minor contradictions concerning the allied matters and ignoring the reliable, clinching and trustworthy evidence of the attestors relating to the actual execution of the Will and the attestation. In this connection, the decisions reported in (2008) 7 MLJ 238 (Mary and Others Vs. Adaikkalasamy and others) and (2008) 8 MLJ 647 (Thayammal Vs. Ponnusamy and Another) are relied upon by the respondents' counsel and a perusal of the above said decisions would go to show that the Court should not make a mountain out of molehill, by accepting certain contradictions concerning allied matters and thereby discard the evidence directly relating to the actual execution of the Will and the attestation of the same and it has also been held that due allowances should be given for the loss of memory on the part of the witnesses, who speak about the execution of the Will due to long passage of time and thus, it is found that in the light of the above decisions, it is seen that considering the contradictions in the testimonies of PWs2 & PW3, as above stated, would only go to show that the same had

occurred in the mouth of the witnesses concerned due to lapse of time and inasmuch as they pertain to allied matters only and not directly touching upon the actual execution of the Will and the attestation thereof, it is found that the first appellate Court is right in all aspects to ignore the same and accept the genuineness of the Will by taking into account the main aspects of the evidence of PWs2 & PW3 regarding the execution and the attestation of the Will Ex.A5. As regards the actual execution of Ex.A5 by the testator and the attestation of the witnesses in the presence of the testator as mandated under law, as adverted above, it was spoken to by PW2 & PW3, in all aspects, as per the requirements of law without any ambiguity or doubt and in such view of the matter, it is found that Ex.A5 has been duly established to be a true and genuine Will by the respondents through the testimonies of PW2 & PW3.

19. That apart, it is also contended by the counsel for the respondents that the testamentary Court is a Court of conscience and not a Court of suspicion and the Court should not proceed with the matter on the presumption that the Will is not a genuine document and the object of the Court should not be to render the testamentary document ineffective but to make it effective and render the terms of the Will operative and in doing so, the Court has to take note of the fact that the testator is not available to the Court to state as to whether the document in fact was his or her last Will or as to whether he or she had signed the same and whether the attestors had signed receiving an acknowledgment from him about the execution of the Will and it is for the said reason that the Courts should be cautious while dealing with the evidence placed before them in relation to the execution and attestation of the Will as also the disposing state of mind of the testator. As regards the above preposition of law, the decision reported in (2006) 4 M.L.J. 113 (Dr. A.Ravikumar Vs. M.Savithiri and Others) is relied upon by the respondents' counsel.

20. Considering the nature of the evidence of the attestors examined as PW2 & PW3 and their minor contradictions are only touching upon certain allied facts and not in any way touching upon the actual execution of the Will in question and the attestation of the same, it is found that Ex.A5 has been established to be a true and genuine document by the respondents. As regards the mental capacity of the testator Venugopal Naidu at the time of execution of the Will, it is found from the testimonies of PW2 & PW3, who are closely associated with the testator that he was in a fit state of mind and hale and healthy and it is only he, who had dictated the contents of the Will Ex.A5 and it is he, who had solicited the assistance of the attestors and the scribe and accordingly, it is seen that knowing about what he proposed to do so, it is seen that it is only the testator, who had taken all the efforts to

bring about the Will Ex.A5 and accordingly, it is seen that all these could have been performed by him only as he was possessed sufficient mental capacity and hale and healthy at the relevant point of time and it is thus found that the testator was in a sound state of mind at the time of execution of the Will. Though it has been suggested by the appellant that Venugopal Naidu was an aged person at the time of execution of the Will, merely on account of age factor, it cannot be held that in other aspects, the testator was suffering from any mental incapacity to execute the Will out of his free volition and in such circumstances, it is found that other than putting a suggestion that he was an aged person, no other material has been placed by the appellant to hold that Venugopal Naidu not in a fit state of mind at the time of execution of the Will. On the other hand, the respondents have clearly established through the mouth of PW2 & PW3 and also the scribe examined as PW4 that Venugopal Naidu was hale and healthy and possessed of all the mental faculties for the free and due execution of the Will and he knew about the document executed by him and accordingly, he has, with full intention and knowledge, had executed the Will. Therefore, the contention of the appellant that Venugopal Naidu was not in a fit state of mind at the time of execution of the Will, as such cannot be countenanced.

21. As regards the above factors and also the due execution of the Will, we have the additional evidence of the scribe of the Will examined as PW4 and PW4, who is a retired Sub-Registrar and who had taken upon himself the task of document writing on his retirement, has deposed that he knew Venugopal Naidu and it is Venugopal Naidu, who had directed him to write the document Ex.A5 and that, he had written Ex.A5 Will and at the time of execution of Ex.A5, Venugopal Naidu was hale and healthy with all good state of mind and it is only Venugopal Naidu, who had dictated the contents of the Will and he had directed him to write the Will for bequeathing the properties in favour of his adopted son and accordingly, under the Will, he had bequeathed the properties to his grandson and accordingly, stated that the properties should go to the grandson, after the life time enjoyment of his adopted son and he had also provided the properties to his brother's son and he had given separate schedule as A & B in the Will and after the Will had been written by him, Venugopal Naidu had read the contents of the same and thereafter signed the Will in his presence and also in the presence of the attestors and the attestors have also attested in the presence of Venugopal Naidu and the document has been registered. Thus, it is found from the testimony of PW4 that Venugopal Naidu was in a good state of mind at the time of execution of the Will and with the intention of bequeathing his property to his grandson born through his adopted son Subbaiyan, it is found that he had chosen to execute the Will Ex.A5 and accordingly, directed PW4 to write the Will by dictating the

terms thereof and accordingly, it is found that Venugopal Naidu, after being satisfied with the contents of the Will, by going through the same, signed the Will in the presence of the attestors and the attestors had also signed the Will in his presence and the Will had been also registered. Despite cross examination, nothing has been elucidated from the mouth of PW4 in support of the case of the appellant, particularly, that Venugopal Naidu had not executed the Will Ex.A5 as put forth by the appellant. It is thus found that the respondents, in addition to the reliable and convincing evidence of the attestors PW2 & PW3, had also established the truth and genuineness of Ex.A5 through the scribe PW4 also and accordingly, it is found that the case of the respondents has also been buttressed by the evidence of PW4, the scribe.

22. However, it is argued by the appellant's counsel that on the very perusal of the Will Ex.A5, it is found to be a prepared and concocted document as the pages of the Will had not been written fully and only half pages written, though sufficient spaces are available in the concerned pages, pointing to the same, it is contended that Ex.A5 Will could not have been written by the testator Venugopal Naidu. No doubt, it is found on seeing Ex.A5, after writing the contents of the Will at the half page of 3, the schedules of the properties had been given in the next pages i.e. schedule A has been incorporated in page 4 and schedule B has been incorporated in page 5, and pointing to the same, the above said wide gap, it is argued that if really, the Will had been executed in the normal fashion, there would not have been any necessity to leave a larger space in page 3 and on the other hand, the schedule of the property could have been written immediately after the contents of the Will and therefore, the document projected is found to be artificial, which would go to show that it had been prepared by making use of the signature of Venugopal Naidu obtained in blank papers. However, as regards the above facts, it is found that PW4 scribe in his evidence during the course of cross examination has testified that as the contents of the Will had been written completely at page 3 middle, the schedule of the properties had been written on the next pages and he has also denied the suggestion that the Will had come to be executed in the blank paper, wherein, the signature of Venugopal Naidu had been already obtained. It is also stated by him that the schedules could have been continuously written and it is left to the discretion of the scribe and there is no reason in not writing the schedules continuously and in such view of the evidence of PW4, it is seen that no exception could be taken to the mere fact that the schedule of the properties had not been written immediately after the contents of Ex.A5 Will and on the other hand, written on separate pages viz., pages 4 & 5. Equally, it is found that A schedule property has been written in Page 4 and though some space is available in page 4 below the same, it is

found that the scribe had chosen to write the B schedule property in page 5 and thereby completed the Will in question as deposed by him. Therefore, the contention that the Will Ex.A5 had come to be concocted or prepared making use of the signature of the Venugopal Naidu obtained in blank papers as such cannot be accepted in the face of acceptable and plausible explanation provided by PW4 with reference to the same and when there is no Law prescribing that the Will should be written in this manner or that fashion and when it is left to the discretion of the scribe, and when according to the scribe PW4, he has written the Will in question as per the dictation of the testator and when it has been clearly established that the testator had signed the Will only after reading the contents thereof on all the pages and when the testator has not chosen to question to mode of the writting of the Will by PW4 in the above said fashion and when it is also clearly established that the testator had signed in the Will in the presence of the witnesses and the witnesses had also signed in his presence, which satisfies the essential requirements of law, it is found that the above said factors cannot at all be termed as suspicious circumstances so as to discredit the genuineness of the Will in question.

23. It is also argued that the appellant and his brothers being the brother's sons of the testator, there is no need for the testator to ignore them and there is no need for the testator to bequeath all the properties to Jagannathan alone, who is no way connected to the testator. It is contended that the above said factor also throws great suspicion in the genuineness of the Will. When it is not in dispute that the suit property belonged to Venugopal Naidu, it is for him to transfer the property to the person he likes as he deems fit and necessary, when according to the respondents, Subbaiyan had been taken in adoption by Venugopal Naidu and when it is also not in dispute that it is only Subbaiyan, who had been all along living with Venugopal Naidu under the same roof till his death, it is natural for the deceased Venugopal Naidu to bequeath his properties in favour of his adopted son and accordingly, had chosen to bequeath his properties in favour of his grandson Jagannathan and accordingly, it is seen that no exception could be taken in the testator bequeathing the properties to his grandson and therefore, it is seen that the above factor cannot also be held to be a suspicious circumstance for discrediting the Will in question. That apart, as rightly put forth by the respondents, on a perusal of the Will marked as Ex.A5, it is seen that the deceased Venugopal Naidu had also bequeathed certain properties in favour of his brother's son. Therefore, it is seen that Venugopal Naidu was in full state of mind and out of his own volition, knowing the consequences of his acts and accordingly, disposed of his properties as he deemed fit and thereby, bequeathed the properties both to his grandson Jagannathan and also his brother's son and therefore, the

contention that there is no reason for the deceased Venugopal Naidu to discard his brother's son under the Will also cannot be accepted as such.

24. As adverted above, Ex.A5 Will is a registered one. As regards the registration of the Will, we have the evidence of PWs 2 to 4. That apart, the factum of registration, being the official acts, there is always the presumption that they had been done as per law and nothing has been pointed out by the appellant to hold that the registration of the Will has not been carried out in the manner known to law and therefore, it is seen that the factum of the registration of the Will also throws additional proof as regards the truth and genuineness of the Will Ex.A5 and therefore, it is seen that Venugopal Naidu having chosen to bequeath his properties under the Will in question, had also chosen to register the same and accordingly, it is seen that the Will in question Ex.A5 had come to be registered on the same day of its execution.

25. Though it has been argued that there are certain suspicions surrounding the Will, as pointed out above, but, when as discussed above, the same cannot be termed at all as suspicious factors for disbelieving the Will. It is further seen that the appellant examined as DW1 during the course of his evidence has not specifically stated anything about the suspicious circumstances surrounding the Will other than vaguely stating that the Testator was an aged person and that, the Will had not been duly executed and attested as per law. That apart, he has not specifically pointed out as to what are the suspicious circumstances surrounding the Will in question and accordingly, it is found that inasmuch as there is no suspicion at all in any manner circumscribing the execution of the Will Ex.A5, it is seen that the appellant has not chosen to point out the same during the course of his evidence and in such view of the matter, the contention now put forth by his counsel, as if there are various suspicious circumstances surrounding the Will in question as such cannot be relished and accepted. Be that as it may, as seen above, when the suspicious circumstances pointed out as regards the Will are not found to be acceptable in any manner for discrediting the Will and when the Will has been duly established to be executed as per the requirements of law, it is seen that without any iota of doubt, Ex.A5 has been established to be a true and genuine document as determined by the first appellate Court and in such view of the matter, there is no reason to interfere with the above said conclusions of the first appellate Court as regards the genuineness of the Will. In the light of the above position, the decisions relied upon by the counsel for the appellant, regarding the proof and genuineness of the Will, reported in 2017 (1) CTC 165 (Saraswathi Vs. M.Maruthachalam and another) and 1979 (1) MLJ 31 (K.Venkatasamy Vs. V.Krishnan) are found to be not

applicable, as such, to the Will Ex.A5 in question and in any event, the principles of law outlined in the above said decisions are taken into consideration and followed as applicable to the facts at hand.

26. The appellant has questioned the case of the respondent Subbaiyan that he is the adopted son of Venugopal Naidu. Now according to Subbaiyan examined as PW1, Venugopal Naidu was residing as their neighbor at Malaysia and during the second world war, his parent passed away and he being left out as orphan, Venugopal Naidu, who was the neighbour took interest in him and accordingly, on account of the cordial relationship that had already existed between two families, as Venugopal Naidu and his wife were issueless, accordingly, they had brought him to India and admitted him in the school, provided him all the education and also married him to the daughter of his brother-in-law and accordingly, it has been pleaded by him that he is the adopted son of Venugopal Naidu and therefore, it has to be seen whether the above case of the respondents could be accepted. As seen from the SSLC certificate of PW1 Subbaian, he was born on 10.02.1938, now according to Subbaian, he had been adopted by Venugopal Naidu during his childhood and accordingly, Venugopal Naidu had declared him as his son in the SSLC certificate and also in the Will dated 19.11.1987 and according to the case of the respondents, Venugopal Naidu had come to India along with Subbaian in the year 1941 and therefore, considering the age, date of birth of Subbaiyan, the adopted son, it is seen that at the age of 3 years, he was brought to India by Venugopal Naidu from Malaysia with the aim of bringing him up as his own son and accordingly, it is the case of the respondents that Venugopal Naidu had taken Subbaiyan as his adopted son. However, pointing to the above facts, it is contended by the appellant's counsel that PW1 Subbaiyan's parents, being stated to have died during the second world war, admittedly Subbaiyan being an orphan, as per law, an orphan could not be taken in adoption by Venugopal Naidu and therefore, the case of the respondents that Subbaian was taken in adoption by Venugopal Naidu after the death of his parents could not be accepted and relied upon as per law and in such view of the matter, it is contended that very base of the case projected by the respondents should be rejected. In this connection, the decisions reported in AIR 1975 Supreme Court 1103 (Dhanraj Vs. Smt.Suraj Bai), (1925) 27 BOMLR 837 (Dhanraj Joharmal Vs. Soni Bai) are relied upon. Further, it is also contended that in O.S.No.355 of 1995 Subbaiyan has been stated to be only a foster son and not the adopted son. A foster son cannot be equated to the adopted son and in this connection, the decisions reported in AIR 1997 Supreme Court 628 (K.V.Muthu Vs. Angamuthu Ammal) and the decision of the Madras High Court dated 06.12.1978 rendered in A.S.No.96 of 1972 are relied upon. It is contended by the respondents' counsel that as regards the proof of

adoption, which has to be established by the respondents, the decisions reported in 2016-2-L.W.630 (Om Prakash Sharma @ O.P.Joshi Vs. Rajendra Prasad Shewda and others), AIR 1983 Supreme Court 114(1) (Madhusudan Das Vs. Smt.Narayani Bai and others), 2002 (2) CTC 173 (Jai Singh Vs. Shakuntala) and the decision of the Madras High Court dated 23.04.2010 rendered in S.A.(MD).No.1118 of 2009 are relied upon and argued that the respondents have to satisfy the principles outlined therein. Countering the same, it is contended by the respondents' counsel that the decisions relied upon by the appellant's counsel pertain to the cases, which had come to be determined after the advent The Hindu Adoption and Maintenance Act 1956 and according to him, the adoption of an orphan is permitted, where a custom with reference to the same is in existence and such a custom in derogation of Hindu Law permits an orphan to be validly adopted and on such adoption, the adopted son would have the same status as a natural born and in this connection, the passage of Mayne's Treatise on Hindu Law and Usage is relied upon wherein it has been stated as follows:

" 225. Adoption of an orphan.- Where a custom in derogation of Hindu law permits an orphan to be validly adopted, it would seem he has the same status as a natural born son. Where such a custom is proved to exist, only to that extent it supersedes the general Hindu law, which still however regulates all beyond the custom. It would therefore seem not be necessary that he should prove a custom regulating his rights of succession. A custom permitting the adoption of an orphan can only stand on the same footing as a custom permitting a brother or a daughter's son or a married man to be adopted. The adoption of an orphan where it is valid by custom cannot be held to revive the obsolete institution of svayamdatta or the kritrima except in Mithila."

27. The above position of law could also be gathered from the decision relied upon by the appellant's counsel reported in AIR 1975 SUPREME COURT 1103 (Dhanraj Vs. Smt. Suraj Bai), wherein, it has been held that adoption of an adult orphan, not permissible under act, except in case of custom. Therefore, it is seen that where customs permits an orphan also could be adopted, on such adoption, he is also given the same status of the natural son.

28. Now, coming to the question of proof of adoption, according to the respondents' counsel, when it is not in dispute that Subbaiyan had been brought up from his tender age by

Venugopal Naidu from Malaysia and accordingly, he had been admitted in school by Venugopal Naidu by showing himself as the father of Subbaiyan and he had also signed the school register, that by itself, would be sufficient to establish the factum of adoption and therefore, it is contended that the document marked as Exs.A1 and 2 would be more than sufficient to hold that Subbaiyan is the adopted son of Venugopal Naidu. Ex.A1 is the SSLC certificate of Subbaiyan and Ex.A2 is the age declaration form of Subbaiyan wherein the signature of Venugopal Naidu finds place. A perusal of Exs.A1 & A2 in toto would go to show that Venugopal Naidu had signed the age declaration form of Subbaiyan in his capacity as father and accordingly, it is seen that Venugopal Naidu has been mentioned as Subbaiyan's father in the SSLC certificate book marked as Ex.A1. It is, thus, found that, as rightly put forth by the respondents' counsel inasmuch as Subbaiyan had been taken in adoption by Venugopal Naidu and accordingly, brought him to India and treated by him as his adopted son, he being issueless, it is seen that at the time of admitting Subbaiyan in the school, he has signed the necessary documents describing himself as his father and accordingly, his name was entered as the father of Subbaiyan in the SSLC certificate book. That apart, as adverted to above, it is seen that Venugopal Naidu had performed the marriage of Subbaiyan with his brother-in-law's daughter and in this connection, the marriage certificate has been marked as Ex.A3. In Ex.A3, it has been clearly mentioned that Subbaiyan is the adopted son of Venugopal Naidu. No doubt, in the translation, Subbaiyan has been shown as Abimana kumaran, but, as rightly put forth by the respondents' counsel, the parties have translated the status of Subbaiyan in the invitation card as understood by them and the same should not be given much weightage and accordingly, it is seen that coupled with Ex.A1 & A2 with other factors, it is seen that Subbaiyan, being the adopted son of Venugopal Naidu, Venugopal Naidu had performed his marriage and accordingly, declared himself to be the adopted father of Subbaiyan in the marriage invitation card marked as Ex.A3. Therefore, from the document marked as Exs.A1 to 3, it has been amply demonstrated that Subbaiyan is the adopted son of Venugopal Naidu.

29. Still it is strenuously argued by the appellant's counsel that Exs.A1 to 3 alone would not be sufficient to hold that Subbaiyan has been taken in adoption by Venugopal Naidu, when there is no proof adduced on the part of the respondents that Subbaiyan has been taken in adoption as per Hindu law, the factum of adoption cannot be held to be established and hence, the case of the respondents should not be countenanced. To the above said argument, it is contended by the respondents' counsel that the factum of Subbaiyan being taken in adoption by Venugopal Naidu had occurred several years ago, when Subbaiyan was a child, therefore, according to him, due to passage of time, such facts could not be established as directly required

by law and accordingly, it is contended on his behalf that in such view of the matter, when certain clinching evidence is produced by the respondents as regards the same by marking Exs.A1 to 3, the Court should give due allowances with reference to the proof of the factum of adoption after a long gap of several years when the same is challenged by the other side and in such circumstances, it is argued that it is only the party, who challenges the adoption, should establish the same and in this connection, the decisions reported in 1925 AIR (PC) 201 (Sri Kanchumarthi Venkata Seetharama Chandra Row Vs. Kanchumarthi Raju alias Venkata Krishna Row and others), AIR 1969 Supreme Court 1359 (Voleti Venkata Ramarao Vs. Kesaparagada Bhaskararao and others), AIR 1970 Supreme Court 1286 (L.Debi Prasad (dead) by L.Rs. Vs. Smt. Tribeni Devi and others), AIR 1963 ORISSA 45 (Harihar Rajguru Mohapatra and another Vs. Nabakishore Rajaguru Mohapa others) and 1986 (99) LW 921 (DB) Krishnaveni ammal and another Vs. Premavathi and 4 others) are relied upon.

30. A perusal of the above said decisions would go to show that when it has been prima facie established that the alleged adopted son has been treated by the adopted father by letting in acceptable and reliable evidence, the person, who challenges the adoption, should establish the same and in this connection, it has been held in the decision reported in AIR 1970 SUPREME COURT 1286 (L.Debi Prasad (dead) by L.Rs. Vs. Smt.Tribeni Devi and others) as follows.

" 9. There is no doubt that the burden of proving satisfactorily that he was given by his natural father and received by Gopal Das as his adoptive son is on Shyam Behari Lal. But as observed by the Judicial Committee of the Privy Council in Rajendrao Nath Holder v. Jogendro Nath Benerjee, (1870-72) 14 Moo Ind APP 67 (PC) that although the person who pleads that he had been adopted is bound to prove his title as adopted son, as a fact yet from the long period during which he had been received as an adopted son, every allowance for the absence of evidence to prove such fact was to be favourably entertained, and that the case was analogous to that in which the legitimacy of a person in possession had been acquiesced in for a considerable time, and afterwards impeached by a party, who had a right to question the legitimacy, where the defendant, in order to defend his status, is allowed to invoke against the claimant every presumption which arises from long recognition of his legitimacy by members of his family; that in

the case of a Hindoo, long recognition as an adopted son, raised even a stronger presumption in favour of the validity of his adoption, arising from the possibility of the loss of his rights in his own family by being adopted in another family. In *Rup Narain and v. Mst. Gopal Devi* (1909) 36 Ind App 103 (PC), the Judicial Committee observed that in the absence of direct evidence much value has to be attached to the fact that the alleged adopted son had without controversy succeeded to his adoptive father's estate and enjoyed till his death and that documents during his life and after his death were framed upon the basis of the adoption. A Division Bench of the Orissa High Court in *Balinka Padhano v. Gopalkrishntt Padhano* AIR 1964 Orissa 117; held that in the case of an ancient adoption evidence showing that the boy was treated for a long time as the adopted son at a time when there was no controversy is sufficient to prove the adoption although evidence of actual giving and taking is not forthcoming. We are in agreement with the views expressed in the decisions referred to above.

10. In the case of all ancient transactions, it is but natural that positive oral evidence will be lacking. Passage of time gradually wipes out such evidence. Human affairs often have to be judged on the basis of probabilities. Rendering of justice will become impossible if a particular mode of proof is insisted upon under all circumstances. In judging whether an adoption pleaded has been satisfactorily proved or not, we have to bear in mind the lapse of time between the date of the alleged adoption and the date on which the concerned party is required to adduce proof. In the case of an adoption said to have taken place years before the same is questioned, the most important evidence is likely to be that the alleged adoptive, father held out the person claiming to have been adopted as his son; the latter treated the former as his father and their relations and friends treated them as father and son. There is no predetermined way of proving any fact. A fact is said to have

been proved where after considering the matters before it,

the court either believes it to exist or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists. Hence if after taking an overall view of the evidence adduced in the case, we are satisfied that the adoption pleaded is true, we must necessarily proceed on the basis, in the absence of any evidence to the contrary, that it is a valid adoption as well.

11. As mentioned earlier Shyam Behari Lal has not been able to substantiate the custom pleaded by him; nor has he adduced any direct evidence relating to the factum of adoption. His case entirely rests upon the documentary evidence that he has produced to show that he had been consistently and continuously treated as the son of Gopal Das, by Gopal Das himself, during his life time and by all his friends and relations including Debi Prasad.

31. The above position of law is also reiterated in the other decisions adverted to above and relied upon by the respondents' counsel. Now, considering the plea of challenge to the case of adoption pleaded by the respondents after a long period of time and when it has been established by the respondents through Exs.A1 to 3 that it is only Venugopal Naidu, who had adopted Subbaiyan and accordingly, shown to be the father of Subbaiyan in the necessary records marked as Exs.A1 to 3, it is seen that due weightage should be given to such records and when there is nothing to indicate that those statements of Venugopal Naidu would not have been given by him or such statements should only be false statements. In this connection, in the above decision reported in AIR 1970 SUPREME COURT 1286 (L.Debi Prasad (dead) by L.Rs. Vs. Smt.Tribeni Devi and others), it has been held that the certificate signed and furnished by the father at the time of admitting his son in the school would be an extremely important piece of evidence and such fact should not be easily ignored and when there is nothing to point out to discredit the same, the same should not be thrown away as false declaration and on the other hand, they should be accepted as worthy piece of evidence, credence and importance. In such view of the matter, it is seen that Exs.A1 to 3 cumulatively would go to establish that inasmuch as Subbaiyan has been adopted by

Venugopal Naidu, accordingly, Venugopal Naidu admitted him in the school and has declared him to be his son and also singed the necessary records and also as the father, performed his marriage describing him as his adopted son and these pieces of evidence would go to establish the positive cause of adoption pleaded by the respondents. Therefore, due to passage of time and when the plea of adoption is now challenged by way of present lis, it is seen that one could not be expected to adduce evidence in a particular fashion with reference to such facts, which took place several years ago.

32. In the light of the above discussions, when the Will marked as Ex.A5 has been established to be the last testament of the deceased Venugopal Naidu as per the requirements of law, reading the contents of Ex.A5 Will, it is found that in no uncertain terms, Venugopal Naidu had declared Subbaiyan as his adopted son in several places and when Venugopal Naidu himself had declared Subbaiyan as his adopted son in an unambiguous manner in Ex.A5 coupled with the fact that he has also described Subbaiyan as his adopted son in Ex.A3 and as his son in Ex.A1 SSLC book, when it is seen that Subbaiyan had been residing along with Venugopal Naidu till his life time, as his son and accordingly, in the necessary documents, Subbaiyan has been shown as the son of Venugopal Naidu. In such view of the matter and in the light of the authoritative decision of the Apex Court, now, the burden is shifted to the appellant to establish that Subbaiyan has not been taken in adoption by Venugopal Naidu. However, with reference to the same, it is found that no acceptable evidence is forthcoming on behalf of the appellant other than mere denial.

33. In the light of the foregoing reasons, I hold that the respondents have clearly established that PW1 Subbaiyan has been taken in adoption duly and legally by Venugopal Naidu and accordingly, Venugopal Naidu had declared PW1 as his son in all the official records and also in his Will Ex.A5 without any doubt or ambiguity and when there is nothing contra placed to disbelieve the same by the appellant, I hold that PW1 Subbaiyan is the adopted son of Venugopal Naidu and the findings with reference to the same by the first appellate Court based on the materials placed on record and on the assessment of the materials in the right perspective both factually and legally, it is seen that the said findings of the first appellate Court cannot be disturbed in any manner.

34. In this connection, it is also seen that as rightly put forth by the respondents' counsel, when the first appellate Court had rendered its findings based on an appreciation of the evidence on record in the right perspective and when the reasonings and conclusions with reference to the same by the first appellate Court are found to be based on the materials on

record, it is settled that the High Court in second appeal cannot substitute the same on re-appreciation of the evidence merely on the ground that another view is possible and in this connection, the decision reported in (2006) 2 M.L.J. 581 (Manickam Vs. Sakunthala alias Rajeswari and others) is relied upon. The principles of law enunciated in the above said decision are taken into consideration and followed as applicable to the facts and circumstances of the case at hand.

35. As rightly put forth by the appellant's counsel, the decision reported in 2017 (1) CTC 192 (R.Balasundaram and eight others Vs. R.Krishnan) are found to be not applicable to the case at hand and hence, not considered.

36. Lastly, it is argued by the appellant's counsel that the suit for the bare relief of recovery of possession without seeking the relief of declaration, particularly, when the claim of title to the suit property by the respondents on the basis of the Will is challenged, the very basis of the suit is not maintainable and accordingly, on that score alone, the suit laid by the respondents should be discountenanced and in this connection, the decision reported in 2017-4-L.W.377 (Devendrametha & others Vs. R.Sakkaraiappan and another) is relied upon.

37. No doubt, the respondents have not sought for the relief of declaration in their suit. Similarly, it is also to be noted that in the suit laid by the appellant seeking permanent injunction, he has also made a claim to the suit property and his claim had also been challenged by the respondents and despite the same, the appellant had also not chosen to seek the relief of declaration in his suit.

38. Be that as it may, it is found that both parties have made different claims to the suit properties in their respective suits, however, without seeking the relief of declaration, despite the challenge thrown by the respective side. However, it is seen that both parties have proceeded with the matter knowing very well that the title in respect of the suit property is in issue and accordingly, invited the decision of the Courts as regards the title of the properties involved in the matter. Accordingly, it is seen that the Courts below have also proceeded with the lis only on the basis of the rival claims of title to the suit properties by the respective parties and accordingly, decided the issues involved in the matter as found above. Therefore, it is found that though the prayer of declaration is not sought for by both parties, considering the evidence tendered in the matter and the approach of the parties to the lis with reference to the claim of the suit properties, it is seen that neither of the parties has been misled in the

matter that they are only claiming title to the suit property though based upon different claims. In such view of the matter, it is seen that the failure of the respondents or for that matter, the failure of the appellant, in seeking the relief of declaration in their respective suits, in my considered opinion, considering the facts and circumstances of the case, had not, in any manner prejudiced the defence taken by them and accordingly, it is seen that the failure of the respective parties in seeking the relief of declaration in their lis would not be fatal as such to throw their lis on that sole ground. Therefore, it is seen that the contention of the appellant's counsel that the failure of the respondents in seeking the relief of declaration in their suit would be fatal to their case as such cannot be accepted. That apart, as rightly put forth by the respondents' counsel, so far as the plea now put forth by the appellant's counsel that the suit laid by the respondents should fail on account of the non-inclusion of the prayer of declaration has not been raised by the appellant in the written statement as such nor raised by him during the course of the first appeal. Only during the course of the second appeal, the present contention has been raised and accordingly, it is argued by the respondents' counsel, had it been raised by the appellant at the trial stage, the respondents would have suitably amended the plaint and in any event, he also contended that the parties have well understood their respective cases and accordingly, proceeded with the matter as if the lis instituted by them respectively is only a title suit and accordingly, adduced evidence on that premise and therefore, prayed at this stage of the matter, the lis of either parties should not be thrown out on technical reason and contended that the non-inclusion of the prayer of declaration by the respective parties had not in any manner prejudiced the defence of the other parties and prayed for suitable orders by this Court. For the reasons aforesaid, in my considered opinion as far as this case is concerned, the non-inclusion of the relief of declaration by the respective parties in their lis would not be fatal to their respective case and accordingly, the said point is answered.

39. In the light of the above discussions, it is found that the first appellate Court has correctly and properly appreciated the evidence on record and held that the Will Ex.A5 has been duly established to be executed by the deceased Venugopal Naidu and duly attested as per the requirements of law by PWs 2 & 3 in conformity with the provisions adumbrated under Section 63(1) of the Indian Succession Act and Section 68 of the Indian Evidence Act and hence, the findings of the first appellate Court that Ex.A5 is a true document is not open to challenge and the same is confirmed and the testator Venugopal Naidu had bequeathed his properties to the beneficiaries described in the Will and accordingly, bequeathed the suit properties in favour of Jagannathan after the life interest to Subbaiyan and therefore,

as rightly held by the first appellate Court, the appellant cannot be held to be entitled to the suit property as the lawful heir of the deceased Venugopal Naidu and in any event, Subbaiyan being held to be established as the adopted son of the deceased Venugopal Naidu is found that he only would be the natural and lawful heir to the deceased Venugopal Naidu to succeed to his properties. Accordingly, the substantial questions of law formulated in these second appeals are answered in favour of the respondents and against the appellant.

40. In conclusion, the common Judgment and decrees dated 27.09.2000 made in A.S.Nos.13 of 2000 & 12 of 2000 respectively on the file of the Additional Subordinate Court, Myladuthurai, are confirmed. Resultantly, the second appeals are dismissed with costs. Consequently, connected miscellaneous petition, if any, is closed.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

sms

To

- 1.The Additional Subordinate Judge
Myladuthurai.
 - 2.The District Munsif, Sirkali.
 3. The Section officer
VR Section, High Court, Madras.(2 copies)
- +1 CC to Mr.A. Muthukumar, Advocate sr 865.
+1 CC to Mr.P. Veeraraghavan, Advocate sr 837.

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