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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :18.01.2021

PRONOUNCED ON:22.01.2021

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

S.A.No.893 of 2008

1. Parklands Apartments Association,
Rep. By its Secretary,
No.7, Nathan Street,
Harrington Road,
Chetpet, Chennai 600 031.
2. Parklands Apartments II Owners Association,
Rep. By its Secretary,
No.7, Nathan Street,
Harrington Road,
Chetpet, Chennai 600 031.
3. Udhya Reddy,
No.5, Nathan Street,
Harrington Road,
Chetpet, Chennai 600 031.
4. Jonathan
No.5, Nathan Street,
Harrington Road,
Chetpet, Chennai 600 031.
5. Thomas,
No.5, Nathan Street,
Harrington Road,
Chetpet,
Chennai 600 031. ... Appellants/Plaintiffs

Vs.

The Headmaster,
Madras Christian College
Higher Secondary School,
Harrington Road,
Chetpet,
Chennai 600 031.

... Respondent/Defendant

Prayer:Second Appeal filed under Section 100 of C.P.C., against
the judgment and Decree dated 04.04.2008 made in A.S.No.125 of



2008 on the file of the III Additional Judge, City Civil Court, at Chennai in confirming the Judgment and Decree dated 03.03.2008 made in I.A.No.20208/2007 in O.S.No.6116 of 2007 on the file of the XI Assistant Judge, City Civil Court at Chennai.

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For Appellants : Mr.Gladys Daniel

For Respondent : Mr.E.Reegan Amarasekaran

J U D G M E N T

Challenge in this second appeal is made to the judgment and decree dated 04.04.2008 passed in A.S.No.125 of 2008 on the file of the III Additional Judge, City Civil Court, Chennai confirming the fair and decreetal order dated 03.03.2008 passed in I.A.No.20208/2007 in O.S.No.6116 of 2007 on the file of the XI Assistant Judge, City Civil Court at Chennai.

2. For the sake of convenience, the parties are referred to as per the rankings in the trial court.

3. The plaintiffs in O.S.No.6116 of 2007 are the appellants in this second appeal.

4. O.S.No.6116 of 2007 has been laid by the plaintiffs for the relief of permanent injunction restraining the defendant, their men, agent or anybody claiming under them from fixing a gate to make a thorough fare from Nathan Street.

5. The case of the plaintiffs in brief is that they are the owners and residents of flats, apartments and houses at Nathan Street, Harrington Road, Chetpet, Chennai 600 031 and Nathan street is a dead end street and the houses were constructed prior to 1980. The Nathan Street is a 30ft road and towards the right side of the Nathan Street is the compound wall of Madras Christian College Higher Secondary School, the defendant and the defendant's school has five gates, of which, four gates are over the Harrington Road and one gate is on the rear side leading to McNichols Street and all along the compound wall of the defendant, the defendant did not have the gate for entry and exit on the side of the Nathan Street, where the plaintiffs are residing. Till date, the children of the defendant's school or visitors to the school do not use the Nathan Street. All along the vehicles belonging to the plaintiffs are being parked adjacent to the compound wall of the defendant which faces the Nathan Street. The compound wall of the defendant put up in the year 1986 got collapsed and damaged on 01.09.2007 and the defendant brought the contractors and measured the compound wall and decided to fix the gate opening towards the Nathan Street.



On hearing the same, the residents of the said apartment including the plaintiffs called on the defendant and expressed their difficulties that would be created, if a new gate is fixed and opened towards the Nathan Street as planned by them. But the defendant declined to heed to their request.

6. Paras 4 and 5 of the plaint which are required to be considered for disposing the second appeal are extracted as contained in the plaint.

4. The Plaintiff states that if a gate is permitted to be opened towards Nathan Street, the vehicles namely cars, three wheelers, two wheelers, vans used to drop children in the morning and to pick up the children in the evening would choke this narrow street which is only 30 feet wide and will not be able to take the load of the vehicular traffic apart from adding to the risk of accidents. Needless to add the vehicles will be parked in the Street where vehicles of other residents and their visitors are already parked creating congestion and any of Plaintiffs who like to get out from their house in their car will not be able to do so. Nathan Street is a dead end street and the vehicle coming to the proposed gate to drop the children cannot take a U-turn to return to Harrington Road except by entering school and then reversing into the Nathan Street. This will be a very difficult exercise especially as the width of the road is only 30 feet.

5. It is submitted that the noise pollution by way of drivers honking horns in view of traffic problem in a small street will cause irreparable loss and injury to the plaintiffs who are in peaceful enjoyment of their premises since 1970. The Plaintiffs especially 1st and 2nd are Apartments in which a large number of aged persons reside. Most of them had selected the Apartments only because being the dead end road, the vehicle traffic could be avoided and therefore there would be pollution by noise, dust and smoke. If the gate is allowed to be fixed all the above said rights and peaceful enjoyment by the plaintiffs since 1970 will be lost.

Therefore, according to the plaintiffs, if the defendant is allowed to put up a gate in the compound facing the Nathan Street, the possession and enjoyment of the property of the plaintiffs would be in jeopardy and further it is put forth by



the plaintiffs that they are contemplating to approach the Chennai Corporation to grant license for the maintenance of the road and get a declaration that the road will be a private road exclusively for the use of the residents of the Nathan Street.

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7. The cause of actions for the suit as given in the plaint is extracted below:

The cause of action for the suit arose at Chennai within the jurisdiction of this Hon'ble Court and on 1.9.2007 when the compound wall of the defendant was collapsed and on 17/09/2007 when the defendant along with his contractor visited for fix a gate and on 18.9.2007 when the representative of the Plaintiff had called on the defendant to express the inconvenience that would be caused to the Plaintiffs in case the proposed construction of gate in Nathan Street and still subsequent days.

Accordingly, the plaintiffs had chosen to institute the suit against the defendant for the relief of permanent injunction as aforesaid.

8. Pending the abovesaid suit, it is found that the defendant has preferred an application in I.A.No.20208/2007 under Order VII Rule 11 CPC seeking for the rejection of the plaint, as according to the defendant, it does not disclose the cause of action and is barred by law for want of permission to sue under section 91 CPC.

9. As averred in the abovesaid petition, according to the defendant, the plaintiff is put to strict proof of the allegations contained in the plaint and the plaintiffs are the owners of buildings and residents of flats abutting the Nathan street, which is a public public street vested with the Corporation of Chennai and while such being the case, according to the defendant, every person who owns land adjoining a highway has a private right of access to the highway from his land and vice versa and the right of access is different from the right of passage over it. The former is a private right, the latter is a public right and further putforth the case that the defendant proposed to build a compound wall or to rebuild a compound wall and put up a gate in the wall which are all the rights inherent with the defendant and the plaintiffs are not entitled to reject the abovesaid rights of the defendant. Further it is putforth that if the right claimed by the plaintiffs over the Nathan Street is a public right and said to be violated by the defendant by putting up a gate in the compound and thereby the plaintiffs seek to prevent the public nuisance, it is contended that the suit laid by the plaintiffs



14. Inasmuch as the second appeal has been preferred against the rejection of the plaint preferred by the plaintiffs, at the foremost, we have to consider the principles of law with reference to the scope of the Order VII Rule 11 CPC as outlined by the Hon'ble Supreme Court and our High Court. In this connection, the Apex Court in the decision reported in (2019) 15 Supreme Court Cases 46 (Alpana Gupta Vs. APG Towers Private Limited and Another) with (APG Tower Private Limited Vs. Alpana Gupta and Another) has held that the pleas raised by the defendants in their applications under Order VII Rule 11 CPC ought to be raised only in the written statement and such pleas do not fall within any of the clauses of Order 7 Rule 11 CPC, and the same are narrated as follows:

Civil Procedure Code, 1908 - Or. 7 R. 11 and Or. 8 R. 1 - Relative scope - Pleas that ought to be raised in written statement cannot be raised in application under Or. 7 R. 11

- On facts, respondent - defendant permitted to raise pleas in written statement, if written statement not already filed - once such pleas raised, trial court would frame appropriate issues and decide matters in accordance with law

Held:

The proper course would be for the defendants is to file their respective written statements, if not so far filed, and raise all the pleas on facts and laws in their written statement in support of their contentions rather than to raise the pleas by taking recourse to the provisions of Order 7 Rule 11 CPC. In other words, the pleas raised by the defendants in their applications under Order 7 Rule 11 ought to be raised in the written statement. Such pleas, do not fall within any of the clauses of Order 7 Rule 11 CPC.

The above principles of law had also been reiterated by the Apex Court in the recent decision reported in 2020 (6) Supreme Court Cases 557 [Nusli Neville Wadia Vs. Ivory Properties and others] whereunder held that while considering the application under Order VII Rule 11 CPC for the rejection of the plaint, only the averments of the plaint are material and can be taken into consideration and any evidence or averments made in the written statement cannot be considered. The abovesaid position has been outlined by the Apex Court in the abovesaid decision as follows:

H. Civil Procedure Code, 1908 - Or.7 R.11 -
Rejection of plaint - Relevant consideration therein
- Held, only averments of plaint are material and
can be taken into consideration - Any evidence or



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averments made in written statement cannot be considered.

69. In Harrendran Vs. Sukumaran, this Court has laid down that question of limitation in the case being mixed question of law and facts, could not have been decided as preliminary issue. The provision under which a plaint can be rejected is provided in Order 7 Rule 11(d). The language used in Order 7 Rule 11 is where averments made in plaint does not disclose a cause of action; relief claimed is undervalued, and the plaint is not corrected in spite of the direction of the Court; plaint is insufficiently stamped, and in spite of the Court's order the plaintiff has failed to supply the requisite stamp duty; where the suit appears from the statement in the plaint to be barred by any law; where it is not filed in duplicate; and where the plaintiff fails to comply with the provisions of Rule 9. What is of significance under Order 7 Rule 11 is that from the averments of the plaint itself the suit is barred by any law and it would include limitation also including bar created by any other law for the time being in force. For the rejection of plaint, averments made by the defendant in the written statement or otherwise cannot be seen, only the averments of the plaint are material and can be taken into consideration and no other evidence.

Our High Court in the decision reported in 2013-2-L.W.84 (R.Arumugam Vs. PR.Palanisamy and another) has held that the plaint can be rejected only based on the averments in the plaint and not on the defence plea in the written statement and the Court cannot go into the question whether the cause of action alleged in the plaint are true or false and the position of law with reference to the same has been outlined by our High Court in the abovesaid decision which is extracted below:

C.P.C., Order 7, Rules 11,13/'Suppression of material fact'; whether ground to reject plaint.

Questions, which can be decided as preliminary issues, cannot be made as grounds for rejection of the plaint unless the ground is brought within the purview of Order 7 Rule 11 CPC - without the aid of the defence pleadings or any other document, the statements made in the plaint themselves should make it appear that the suit is barred by any law for the time being in force.

"Suppression of fact" alone shall not be the ground for holding that the plaint lacks pleadings regarding cause of action - Question whether a



cause of action is true or not cannot be the scope of enquiry in an application under Order 7, Rule 11.

Sustainability of the prayer for declaration in the absence of a prayer to set aside the document - Scope of.

A reading of the Order 7 Rule 11 will show that neither suppression of fact nor misrepresentation, not even fraud, has been made a ground for rejection of plaint. Even the rule does not include abuse of process of court as a ground for rejection of plaint. Clauses (a) and (d), which deal with absence of disclosure of cause of action and the suit appearing from the statement to be barred by any law. Whether the plaint discloses a cause of action for the suit or not, has got to be decided only based on the averments made in the plaint and the documents produced along with the plaint. The cause of action alleged may not be true or may be a deliberate falsehood. The court dealing with a petition under Order VII Rule 11 cannot go into the question whether cause of action alleged in the plaint is true or false and take a decision based on the defence plea taken by the defendant or based on the documents produced by the defendant. On the other hand, there may be cases in which the plea made in the plaint itself having the effect of destruction of the plea regarding the cause of action and making such plea regarding cause of action illusory. Only in such cases, the court has to decide whether the cause of action alleged in the plaint is real or that the plaint has been drafted in an intelligent manner to camouflage an illusory cause of action as a real cause of action. A cause of action alleged in the plaint being illusory different from the cause of action alleged in the plaint being false. Only in the former case, the court can reject the plaint on the ground that the plaint does not disclose a cause of action and not in the latter case.

Citation of a false cause of action, fraud, misrepresentation or the filing of the suit being an abuse of process of court, can, at the best, be projected as a preliminary issue. All questions, which can be decided as preliminary issues, cannot be made as grounds for rejection of the plaint unless the ground is brought within the purview of Order VII Rule 11 CPC. The distinction between the rejection of a plaint under Order VII Rule 11 CPC



But the dismissal of the suit on the question of maintainability and on the other hand, based on the decision regarding a preliminary issue operates as a bar for a fresh suit on the same cause of action. Even the question of jurisdiction and a bar created to the suit by any law for the time being in force, if it is raised in the defence plea that cannot be the ground on which the plaint can be rejected unless the attraction of such a bar is manifest from the pleadings made in the plaint. Without the aid of the defence pleadings or any other document, the statements made in the plaint themselves should make it appear that the suit is barred by any law for the time being in force as contemplated in sub clause (d) of Rule 11 of Order VII CPC. If such a question of attraction of a bar to the suit created by any law for the time being in force is raised in the written statement or the defence plea, the same can be tried as a preliminary issue under Order XIV Rule 2(2) of CPC. This position has been made clear in a number of judgments by the Hon'ble Apex Court and it shall be sufficient to refer to some of the recent judgments of the Apex court.

The view of the Hon'ble Supreme Court indicated supra shall be enough to answer the first and third substantial questions of law against the appellant/second defendant. The mere suppression of fact alone shall not be the ground for holding that the plaint lacks pleadings regarding cause of action. When a plaint contains clear pleadings spelling out the cause of action, the question whether such a cause of action is true or not cannot be the scope of enquiry in an application under Order VII Rule 11 CPC. Whether there is any suppression of material facts, can be ascertained only from the pleadings made in the written statement and the evidence to be adduced by the parties. This court holds that suppression of material facts alone shall not entitle a defendant to have the plaint rejected as one lacking in cause of action under Order VII Rule 11 CPC. The first substantial question of law is answered accordingly against the appellant.



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Claiming that wife of Rangaswamy Gounder, namely Masathal, had no right to cancel the will made by Rangaswamy Gounder after the same came into effect on his death, more so, when no power of such cancellation had been given to Masathal, the first respondent/plaintiff has chosen to seek a declaration that the deed of cancellation allegedly executed by Masathal on 06.09.1994 is not only null and void, but also not binding on the plaintiff. We can't say that there is no cause of action for seeking such a declaration. Whether such a prayer for declaration without a prayer for setting aside the registered document is sustainable, is yet another question, which does not pertain to the realm of consideration in a petition under Order VII Rule 11 CPC. Hence the second substantial question of law is also answered accordingly against the appellant.

The mistake committed by the learned trial judge in going beyond the scope of consideration contemplated in Order VII Rule 11 CPC by taking into consideration the defence plea and also holding that the plaint was liable to be rejected on the ground of suppression of fact and abuse of process of court, was rightly interfered with and set-right by the lower appellate court. There is no defect or infirmity in the judgment and decree of the lower appellate court.

Popat Jamal & Sons, rep. by its Managing Partner, Mahmud Jamal, Chennai vs. N.M.Venkatachalapathy @ Babulal and another reported in 2007 (1) CTC 251.

Popat and Kotecha Property vs. State Bank of India Staff Association reported in (2005) 7 SCC 510 ;

Kamala and Others vs. K.T.Eshwara Sa and Others reported in (2008) 12 SCC 661;

Bhau Ram vs. Janak Singh & Ors. reported in 2012(6) SCALE 530;

C.Natarajan vs. Ashim Bai and Another, (2007) 14 SCC 183;

Ram Prakash Gupta vs. Rajiv Kumar Gupta and Others, (2007) 10 SCC;

59, Hardesh Ores (P) Ltd. vs. Hede and Company, (2007) 5 SCC 614;

Mayar (H.K.) Ltd. and Others vs. Owners & Parties, Vessel M.V.Fortune Express and others, (2006) 3 SCC 100;

Sopan Sukhdeo Sable and Others vs. Assistant Charity Commissioner and Others, (2004) 3 SCC 137;



and

Saleem Bhai and Others vs. State of Maharashtra and Others, (2003) 1 SCC 557] Referred to.

Keeping in mind the abovesaid principles of law enunciated by the Apex Court and our High Court, considering the case at hand, it is seen that the plaintiffs have levied the suit seeking the relief of permanent injunction against the defendant from putting up a gate in the compound adjoining the Nathan Street to make a thorough fare from Nathan Street. Considering the case projected by the plaintiffs both in the plaint as well as in the counter put forth by them in the application preferred by the defendant for the rejection of the plaint, it is seen that the plaintiffs seek to exercise the right over Nathan Street both as a public right and private right, and according to the plaintiffs, if the gate is permitted to put up by the defendant in the compound wall adjacent to Nathan Street, the same would result in congestion and choke the narrow street and obstruct the residents to get out of from their houses and the nuisance that would be caused thereby to the plaintiffs and the public, would not only be a public nuisance but also would be a personal nuisance caused to the residents of Nathan Street and the neighbors and therefore according to the plaintiffs, they had been necessitated to institute the suit against the defendant and in such circumstances, contended that prior permission is not required to be obtained by the plaintiffs affecting any right of the suit which may exist independently of the provisions contained in Section 91(1) CPC as provided u/s 91(2) CPC.

15. The plaintiffs have explained, as detailed in the plaint, as well as in the counter preferred by them, as to how the installation of the gate in the compound adjoining the Nathan Street by the defendant would cause the infringement of their rights as well as the rights of the neighbors in utilising the Nathan Street, particularly, in coming out of their residents to the street as well as the pollution caused on account of the noise, dust and smoke created by the vehicle or traffic of the vehicles used to drop and pick up the children from the school and furthermore, according to the plaintiffs, they are also endeavoring to obtain necessary license from the Corporation of Chennai to exclusively use the Nathan Street for their own purpose and in such view of the matter, according to the plaintiffs, they had been necessitated to institute the suit for the relief of permanent injunction.

16. Considering the abovesaid averments put forth by the plaintiffs in the plaint as well as in the counter, it is evident that the plaintiffs have disclosed the justifiable cause of action against the defendant as to why the defendant should be restrained from fixing the gate, in particular, in the



compound wall adjoining Nathan Street. According to the plaintiffs, the defendant had not put up any gate till date i.e., the date of institution of the suit in the compound adjacent to the Nathan Street and on the other hand, having gates on the compound wall lying over Harrington Road and McNichols Street and not at all used the Nathan Street for entry and exit till date and it is only the plaintiffs and the neighbors of Nathan Street who had been using the said street which is a very narrow street having width of 30 feet only. Therefore, all these facts would constitute a valid cause of action enabling the plaintiffs to lay the suit against the defendant for the relief permanent injunction. Therefore, it is evident that the plaintiffs have come forward with the suit on the apprehension that the defendant would at any point of time put up the gate in the compound wall facing Nathan Street and thereby cause the public and private nuisance as averred by them.

17. The abovesaid apprehension entertained by the plaintiffs could also be justified from the contention of the defendant that it endeavored to put up the gate in the compound adjacent to Nathan Street while rebuilding the compound which has collapsed. Therefore, the apprehension of the plaintiffs that the defendant may put up the gate in the compound wall facing the Nathan street cannot be held to be illusory or a pigment of the imagination on the part of the plaintiffs.

18. From the arguments put forth by the respective parties, it is seen that the gate has also been erected by the defendant after the institution of the suit. Therefore the apprehension of the plaintiffs has come to be true. Only for injuncting the defendant from the erection of the gate, the plaintiffs have levied the suit against the defendant by claiming the relief of permanent injunction.

19. The plaintiffs' suit being above and when the plaint averments taken as a whole coupled with the averments in the counter preferred by the plaintiffs, it is seen that the plaintiffs have levied the suit against the defendant both for claiming the public right and private right over the usage of Nathan Street and therefore put forth the case that the erection of the gate in the compound by the defendant would cause both public and private nuisance to the plaintiffs as well the neighbors of Nathan Street. In such view of the matter, the determination of the Courts below that the plaintiffs should have obtained the prior permission as contemplated under section 91 CPC, as such, cannot be countenanced. As rightly contended by the plaintiffs counsel, as per section 91(2), section 91(1) shall not be deemed to limit or otherwise affect any right of suit which may exist independently of its provisions.

20. Therefore, when according to the plaintiffs, the erection of the gate in the compound wall by the defendant would



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cause not only public nuisance but also cause private nuisance and infringement of the valid rights which had accrued to the plaintiffs and the neighbors of the Nathan Street owing to the congestion of vehicles, pollution caused by noise, dust and smoke, it is seen that section 91(1) CPC would be inapplicable to the suit instituted by the plaintiffs.

21. The Courts below seem to have been carried away by the defence version put forth by the defendant in the written statement as well as in the Affidavit filed in support of their application for the rejection of the plaint and proceeded to hold that the plaintiffs have not established their apprehension by placing acceptable and reliable materials. When the abovesaid facts could be established by the plaintiffs only during the course of trial by adducing necessary and proper evidence as well as by amending the plaint for appropriate reliefs if necessary, owing to the construction of the gate by the defendant subsequent to the institution of the suit, the Courts below are found to be not justified in rejecting the plaint levied by the plaintiffs on the footing that the plaintiffs have not placed materials seeking the disclosure of the cause of action as put forth in the plaint. The Courts below seem to have accepted the case of the defendant on the premise that the plaintiffs have not placed any material /document to show that the defendant is creating a public nuisance or infringed the right of the plaintiffs by putting up the gate in the compound wall. These are the things that would be required to be performed by the plaintiffs only during the course of trial and not at the inception particularly, in the application preferred by the defendant in the rejection of the plaint. When the averments projected in the plaint read on the whole disclose a valid cause of action and the apprehension of the plaintiffs have also come to be true by the construction of the compound wall on the part of the defendant subsequent to the institution of the suit and the case has been projected by the plaintiffs that both their public and private rights as well as the public and private rights of the neighbors would be infringed, in all, it is clear that the plaintiffs have a valid cause of action to institute the suit against the defendant.

22. The defendant's counsel would contend that it has the right to access from all points of his property through the Nathan Street as the same is abutting the defendant's school. In this connection, he relied upon the decision reported in 2019 (6) CTC 511 [Sundari Vs. Gandhi and others]. Further he would rely upon the decision reported in 2020 (1) CTC 220 [Colonel Shrawan Kumar Jaipuriyar @ Sarwan Kumar Jaipuriyar Vs. Krishna Nandan Singh and another] for the contention that the mere contemplation or possibility that right may be infringed without any legitimate basis does not disclose cause of action. The principles of law outlined in the abovesaid decisions are taken



into consideration and followed as applicable to the case at hand.

23. As above pointed out, considering the plaint averments on the whole and the fact that till date ie., till the institution of the suit, the defendant has not put up the gate in the compound wall adjacent to Nathan Street and not using the Nathan Street for entry and exit and on the other hand, utilizing the gates at Harrington Road and McNichols Street only for entry and exit and only recently had endeavored to put up the gate in the compound wall adjacent to Nathan Street, as the same is alleged to be in violation of and infringing the right of the plaintiffs over the usage of Nathan Street hitherto, all put together, would go to show that the plaintiffs have based the suit on a proper cause of action. In such view of the matter, the determination of the Courts below that the plaintiffs have failed to disclose the cause of action to institute the suit against the defendant cannot be accepted in any manner.

24. In the light of the abovesaid factors, the reasons given by the Courts below that the plaintiffs have not disclosed the cause of action and that the plaintiffs have not obtained the prior permission of the Court under section 91(1) CPC and consequently the plaintiffs' suit is liable to be rejected under Order VII Rule 11 CPC are liable to be set aside.

25. As above discussed, considering the pleas put forth by the plaintiffs in the suit as well as the defence taken by the defendant in the matter, the issues involved between the parties with reference to the usage of the street require the adduction of evidence by both the parties during the course of trial and the same could not be done at the inception of the suit particularly, in the application preferred for the rejection of the plaint under Order VII Rule 11 CPC.

26. In conclusion, the substantial question of law formulated in the second appeal is accordingly answered in favour of the plaintiffs and against the defendant.

27. Resultantly, the judgment and decree dated 04.04.2008 passed in A.S.No.125 of 2008 on the file of the III Additional Judge, City Civil Court, Chennai confirming the fair and decretal order dated 03.03.2008 passed in I.A.No.20208/2007 in O.S.No.6116 of 2007 on the file of the XI Assistant Judge, City Civil Court at Chennai are set aside and the XI Assistant Judge, City Civil Court, Chennai is directed to restore the suit laid by the plaintiffs in O.S.No.6116 of 2007 on file and dispose of the same in accordance with law after enabling the parties concerned to let in any evidence in respect of their respective contentions qua the usage of Nathan Street as claimed by them. Accordingly, the second appeal is allowed. Considering the facts and circumstances of the case, there is no order as to



costs. Consequently, connected miscellaneous petition, if any, is closed.

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Assistant Registrar (CS-I)

Sub Assistant Registrar

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To

- 1.The III Additional Judge,
City Civil Court, at Chennai.
- 2.The XI Assistant Judge,
City Civil Court at Chennai.

Copy to

The Section Officer,
VR Section,
High Court.

+2cc to Mr.Gladys Daniel, Advocate, S.R.No. 3471
+1cc to Mr.E.Reegan Amarasekaran, Advocate, S.R.No.3841

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