

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 23rd DAY OF DECEMBER 2021

THE HON'BLE MR. JUSTICE N.SESHASAYEE

C.S.No.431 of 2011

1. Tmt. Bolls Aruna Kumari,  
W/o. Mr. Giri Rajulu
2. Mr. Kari Vijaya Saradhi,  
S/o. Mr. Chalamazah,

Both are residing at  
No.23, Gandhi Road,  
Jagannatha Nagar,  
Arumbakkam, Chennai – 600 106.

... Plaintiffs

-Vs-

1. Mrs. P. Vijayakumari,  
W/o. Sri K. Pandurangan
2. Mr. K. Pandurangan,

Both are residing  
Door No.32/11,  
S.S.Sahib Street,  
Aminjikarai,  
Chennai 600 029.

... Defendants

Civil Suit praying that this Hon'ble Court be pleased to pass a judgement and decree against the defendants their men or Agents, servants, or any one acting under them.

a) for declaration that the plaintiffs are the absolute owners of the property and delivery of possession of the suit schedule mentioned property from the defendants, their agents, men or any one acting under them more fully described in the schedule and in case, the defendants failed to obey the orders of the Court, this Court do that the orders are implemented and possession handed over to the plaintiffs;

b) for damages of unlawful use and occupation of suit property at the rate of Rs.2,00,000/- per month from 06.10.2009 to 30.04.2011 i.e., a total sum of Rs.38,00,000/- (Rupees Thirty eight lakhs only) and also for future damages from the date of plaint to till the date of obtaining peaceful possession from the defendants. The plaintiffs undertakes to pay the Court fee for future damages at the time of getting decree until such time the possession obtained by the plaintiffs;

c) for mandatory injunction directing the defendants to remove the articles lying in the suit property including iron corrugated iron sheets covering the compound wall and to hand over vacant possession to the plaintiff for putting a compound wall in the suit schedule mentioned property;

d) for a permanent injunction restraining the defendants, their men, agents, servants or any one acting under them not to interfere with the peaceful possession and enjoyment of the suit schedule mentioned property.

e) to grant costs of the suit.

This suit along these C.S.Nos.446/2009, 433/2011, Tr.C.S.No.670/2009 & Tr.C.S.No.511 of 2013 having been heard on 02.12.2021 in the presence of Mr.Subba Reddy, Advocate for the plaintiffs herein and Mr.R.Thiagarajan, for Mr.M.Neelakandan, Advocates for the defendants herein and upon reading the plaint filed herein and other exhibits therein referred to and upon perusing the evidence adduced therein and having stood over consideration till this date and coming on this day before this Court for orders in the presence of said advocates for the parties hereto and this Court having observed that in a suit for declaration of title the initial burden of proof is only on the plaintiff, yet it is not given to a rank trespasser of the property to raise defences that they are hardly entitled to plead, this Court has very little difficulty in holding that the plaintiffs in C.S.431 of 2011 are the title holders of plot No:10

**It is ordered and decreed as follows:-**

That the plaintiffs title to the suit property morefully set out in the Schedule-A hereunder, be and is hereby declared.

2. That the defendants herein be are hereby directed to vacate and surrender vacant possession of the said suit property to the plaintiff within a period of five weeks from this day.

3. That the defendants herein, be and are hereby directed to pay a sum of Rs.35,00,000/- (Rupees Thirty Five Lakhs only) as consolidated unliquidated damages to the plaintiff and post decretal future damages at Rs.5,00,000/- (Rupees Five Lakhs only) per annum.

4. That there shall be a charge on the property morefully setout in the Schedule-B hereunder, covered under Ext.P-8 (Plot No:11 referred to in the judgement and purchased in the name of Vijayakumari, the 2<sup>nd</sup> defendant in the suit) to the extent of all the damages and costs payable to the plaintiff herein.

5. That the defendants herein, do pay to the plaintiff herein, the exemplary costs of this suit as and when taxed by the taking officer of this Court and noted in the margin thereof.

### **SCHEDULE PROPERTIES**

#### **SCHEDULE 'A'**

All that piece and parcel of dry land comprised in Old Survey No. 19/2A, New No.19/12, Ext.2720 Sq.feet and 600 Sq.feet common passage totally 3320 sq.feet equivalent to nearly 7 1/2 cents of Madras District and Egmore-Nungambakkam Taluk situated in 106 Koyambedu Village and bearing Plot No.10 and bounded as follows:

North by : 30' feet Common Road  
 South by : Survey No. 19/2 A part of land  
 East by : Plot No.9  
 West by : Plot No. 11

measuring

North 40' feet

South 40' feet

East 68 Feet + 15 Passage Area 83 Feet

West 68 Feet + 15' Passage Area 83 Feet

In all 3320 sq.ft and situated within the registration Sub District of Anna Nagar and Registration District of Central Madras common passage area delineated in the Plan attached to the Plaint. Removal of obstructions also sought over the common passage area.

### **SCHEDULE - B**

All that piece and parcel of the property being R.C. ROOF house, measuring 900 sq.ft, and ground and premises bearing Plot/Door No.11 situated in the nearer of Chinmaya Nagar Main Road, Koyambedu, Chennai 107 comprised in Old Survey No.19/2-A, New Survey No.19/31 in No.106 KOYAMBEDU VILLAGE, Nungambakkam Taluk, measuring an extent of 2720 sq.feet with an house thereon and common rights in 600 sq.feet of common passage and bounded on the :

North by : 30 feet Road a common passage  
 South by : Part of S.No.19/2  
 East by : Plot No.10  
 West by : Plot No. 12

measuring :

NORTH TO SOUTH on the EASTERN & WESTERN SIDES : 68 feet, and EAST TO WEST on the NORTHERN & SOUTHERN SIDES; 40 feet and situated within the Sub-registration District of Anna Nagar, District Registration of Chennai Central.

WITNESS THE HON'BLE MR.JUSTICE MUNISHWAR NATH BHANDARI ACTING CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 23rd DAY OF DECEMBER 2021.

Sd/-

ASSISTANT REGISTRAR (Comm.Cases)

//Certified to be true copy//

Dated at Madras this the            day of            2022.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

KY

11.01.2022

C.S.No. 431 of 2011

DECREE

DATED : 23.12.2021

THE HON'BLE MR. JUSTICE  
N. SESHASAYEE

FOR APPROVAL: 11/01/2022

APPROVED ON : 11/01/2022

**Copy to:**

The Sub Registrar,  
Sub-Registrar Office,  
Anna Nagar,  
Registration District of  
Central Madras.

**Corrected Copy**

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 02.12.2021

Judgment Pronounced on : 23.12.2021

CORAM : JUSTICE N.SESHASAYEE

C.S.No.446 of 2009, Tr.C.S.No.670 of 2009, C.S.No.431 of 2011,  
C.S.No.433 of 2011 & Tr.C.S.No.511 of 2013

- |                       |                                                                                                                 |
|-----------------------|-----------------------------------------------------------------------------------------------------------------|
| 1.K.Pandurangan       | .... Plaintiff in C.S.No.446 of 2009                                                                            |
| 2.C.Sudhaheer Reddy   | .... Plaintiff in Tr.C.S.No.670 of 2009<br>.... Plaintiff in C.S.No.433 of 2011                                 |
| 3.Bolla Aruna Kumari  | .... 1 <sup>st</sup> Plaintiff in C.S.No.431 of 2011<br>.... 1 <sup>st</sup> Plaintiff in Tr.C.S.No.511 of 2013 |
| 4.Kari Vijaya Saradhi | .... 2 <sup>nd</sup> Plaintiff in C.S.No.431 of 2011<br>.... 2 <sup>nd</sup> Plaintiff in Tr.C.S.No.511 of 2013 |

Vs

- |                     |                                                                                                                                                                                                                                    |
|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.C.Parimala        | .... 1 <sup>st</sup> Defendant in C.S.No.446 of 2009                                                                                                                                                                               |
| 2.C.Sudhaheer Reddy | .... 2 <sup>nd</sup> Defendant in C.S.No.446 of 2009                                                                                                                                                                               |
| 3.P.Vijayakumari    | .... 1 <sup>st</sup> Defendant in Tr.C.S.No.670 of 2009<br>.... 1 <sup>st</sup> Defendant in C.S.No.431 of 2011<br>.... 1 <sup>st</sup> Defendant in C.S.No.433 of 2011<br>.... 1 <sup>st</sup> Defendant in Tr.C.S.No.511 of 2013 |
| 4.K.Pandurangan     | .... 2 <sup>nd</sup> Defendant in Tr.C.S.No.670 of 2009<br>.... 2 <sup>nd</sup> Defendant in C.S.No.431 of 2011<br>.... 2 <sup>nd</sup> Defendant in C.S.No.433 of 2011<br>.... 2 <sup>nd</sup> Defendant in Tr.C.S.No.511 of 2013 |

**Prayer in C.S.No.446 of 2009 :** Civil Suit filed under Section Order IV Rule 1 of O.S.Rules read with Order VII Rule 1 of CPC., praying for a judgment and decree against the defendants :

- (a) for a declaration that the plaintiff is the absolute owner in physical possession of the schedule property, comprised in S.No.19/2A, Ext.2720 sq.ft., and 600 sq.ft., common passage total 3320 sq.ft., equivalent to nearly 7 ½ cents of Madras District and Egmore-Nungambakkam Taluk situated in 106, Koyambedu Village and bearing Plot No.12 more fully described in the schedule hereunder having perfected his right, title and possession therein by adverse possession;
- (b) for granting permanent injunction against the defendants, their men, successors-in-interest, representative and anybody acting on their behalf claiming right, title, possession in any manner whatsoever;
- (c) and for the cost of the suit

and pass such further or other reliefs which this Court may deem fit and proper in the circumstances of this case.

**Prayer in Tr.C.S.No.670 of 2009 :** Civil Suit filed under Section Order VII Rule 1 of CPC., praying for a judgment and decree against the defendants :

- (a) for a permanent injunction restraining the defendants their men or agents or servants or any one acting under them not to interfere with the peaceful possession and enjoyment of the suit property and also not to throw any wine bottles, old machineries at Plot bearing No.12, Survey No.19/2, Re-survey No.19/2A and 19/2C, Block No.24, T.S.No.1/1 part, 106, Koyambedu Village, more fully described in schedule ;

- (b) to grants costs of the suit; and
- (c) to pass further or other suitable orders as this Court may deem fit and proper in the circumstances of this case.

**Prayer in C.S.No.431 of 2011 :** Civil Suit filed under Section Order VII Rule 1 of CPC., praying for a judgment and decree against the defendants :

- (a) for declaration that the plaintiffs are the absolute owners of the property and delivery of possession of the suit schedule mentioned property from the defendants, their agents, men or any one acting under them more fully described in the schedule and in case, the defendants failed to obey the orders of the Court, this Court do that the orders are implemented and possession handed over to the plaintiffs;
- (b) for damages of unlawful use and occupation of suit property at the rate of Rs.2,00,000/- per month from 06.10.2009 to 30.04.2011 i.e., a total sum of Rs.38,00,000/- (Rupees Thirty eight lakhs only) and also for future damages from the date of plaint to till the date of obtaining peaceful possession from the defendants. The plaintiffs undertakes to pay the Court fee for future damages at the time of getting decree until such time the possession obtained by the plaintiffs;
- (c) for mandatory injunction directing the defendants to remove the articles lying in the suit property including iron corrugated iron sheets covering the compound wall and to hand over vacant possession to the plaintiff for putting a compound wall in the suit schedule mentioned property;
- (d) for a permanent injunction restraining the defendants, their men, agents, servants or any one acting under them not to interfere with

the peaceful possession and enjoyment of the suit schedule mentioned property

(e) to grant costs of the suit

(f) to pass further or other suitable orders as this Court may deem fit and proper in the circumstances of the case.

**Prayer in C.S.No.433 of 2011 :** Civil Suit filed under Section Order VII Rule 1 of CPC., praying for a judgment and decree against the defendants :

(a) for declaration and delivery of possession of the suit schedule mentioned property from the defendants more fully described in the schedule;

(b) for damages for unlawful use and occupation of the suit property at the rate of Rs.2,00,000/- per month from June 2009 to 30.4.2011 and also future damages till the date of obtaining peaceful possession from the defendants. The plaintiff undertakes to pay the Court fee for future damages at the time of getting decree;

(c) for mandatory injunction directing the defendants to remove the articles lying in the suit property and to hand over vacant possession to the plaintiff;

(d) for permanent injunction restraining the defendants, their men, agents, servants acting under them from interfering with the peaceful possession and enjoyment of the suit property.

**Prayer in Tr.C.S.No.511 of 2013 :** Civil Suit filed under Section Order VII Rule 1 of CPC., praying for a judgment and decree against the defendants :

(a) For permanent injunction restraining the defendants, their men or agents, or servants anyone acting under them not to interfere with the peaceful possession and enjoyment of the suit property and not

to put up any chairs and tables at plot bearing Plot No.10, Survey No.19/2, Re-survey No.19/2A and 19/2C, Block No.24, T.S.No.1/1 part, 106 Koyambedu Village, more fully described in schedule ;

- (b) Mandatory injunction to remove obstacles over the common passage as delineated in the sketch in front of Plot No.11, and also on common passage S.No.19/12, Old No.91/2A, Re-survey No.19/2A and 19/2C, Block No.24, T.S.No.1/1 part, Koyambedu Village;
- (c) To grant costs of the suit; and
- (d) To pass further or other suitable orders as this Hon'ble Court may deem fit and property in the circumstances of the case.

**For Plaintiff(s)** : Mr.R.Thiagarajan  
(in C.S.No.446 of 2009) for Mr.M.Neelakandan

(in C.S.No.431 of 2011 : Mr.P.Subba Reddy  
C.S.No.433 of 2011  
Tr.C.S.No.670 of 2009  
Tr.C.S.No.511 of 2013)

**For Defendant(s)** : Mr.P.Subba Reddy  
(in C.S.No.446/2009)

(in C.S.No.431 of 2011 : Mr.R.Thiagarajan  
C.S.No.433 of 2011 for Mr.M.Neelakandan  
Tr.C.S.No.670 of 2009  
Tr.C.S.No.511 of 2013)

### **COMMON JUDGMENT**

There are two batches of litigation. They are separately tried. However, given the factual matrix and evidentiary significance that one throws on the others, this Court has chosen to consolidate them for pronouncing judgment.

2. A broad opening statement may be made :

- There are three prime characters in this batch of cases: (a) Bolla Arunakumari and another; (b) Sudhakar Reddy; and (c) Pandurangan. Pandurangan's wife is one Vijayakumari. She has a very minimal role in both the batches of cases.
- There are three adjacent plots in a layout viz., Plot No.10, Plot No.11 and Plot No.12. Bolla Aruna Kumari claims title to Plot No:10, Vijaykumari is the owner of Plot No:11 and Sudhakar Reddy asserts title over Plot No:12.
- The broad allegations of the title holders of Plot No.10 & Plot No.12 are that Pandurangan, the occupant of Plot No.11, which is a middle plot of the three, has forcibly occupied the two adjacent plots - Plot Nos.10 & 12.
- Initially Bolla Aruna Kumari, and Sudhakar Reddy had come up with independent suits, for bare injunction against Vijayakumari and Pandurangan, the owner and occupant of plot No:11 before

the City Civil Court. The details are as below :

| <i>Name of the owner(s) / Plaintiff(s)</i>      | <i>Plot No.</i> | <i>Suit instituted</i> | <i>Against defendants</i>            | <i>Relief</i>               |
|-------------------------------------------------|-----------------|------------------------|--------------------------------------|-----------------------------|
| Bolla Aruna<br>Kumari<br>Kari Vijaya<br>Saradhi | 10              | O.S.No.4031/2009       | P.Vijayakumari<br>&<br>K.Pandurangan | Permanen<br>t<br>injunction |
| Sudhahe Reddy                                   | 12              | O.S.No.3856/2009       | P.Vijayakumari<br>&<br>K.Pandurangan | Permanen<br>t<br>injunction |

- Be that as it may, after Sudhakar Reddy had instituted the suit, Pandurangan had laid an independent suit in C.S.No.446 of 2009 on the file of this Court against the former for a declaration of his title over plot No:12 (of which Sudhahe Reddy is the owner) on a plea of adverse possession.
- Alleging that during the pendency in O.S.No. 4031 of 2009 and O.S.No.3856 of 2009 that Pandurangan had completed the encroachment, the respective title holders of plots No:10 and 12 have instituted separate suits for declaration of their respective title and for recovery of their respective plots with past and future damages. In the meantime, the suits that they had earlier filed before the City Civil Court were transferred to the file of this Court and were consolidated. Presently, the two batch of cases appear as below:

| <i>Name of the owner / plaintiff</i>     | <i>Plot No.</i> | <i>Suit instituted</i>                            | <i>Relief</i>                                              |
|------------------------------------------|-----------------|---------------------------------------------------|------------------------------------------------------------|
| Bolla Aruna Kumari & Kari Vijaya Saradhi | 10              | Tr.C.S.No.511 of 2013 (formerly O.S.No.4031/2009) | Bare injunction                                            |
|                                          |                 | C.S.No.431 of 2011                                | Declaration and injunction                                 |
| Sudhaheer Reddy                          | 12              | Tr.C.S.No.670 of 2009 (formerly O.S.No.3856/2009) | Bare injunction                                            |
|                                          |                 | C.S.No.433 of 2011                                | Declaration and injunction                                 |
| Pandurangan                              |                 | C.S.No.446 of 2009                                | Declaration of title by adverse possession over Plot No.12 |

3. The connecting cord that prompted this Court to consolidate both these batch of cases is fundamentally founded on the strategy that Pandurangan and his wife Vijayakumari have evolved in trying to telescope certain fact pertaining to Bolla Arunakumari to non suit Sudhakar Reddy. This is possible only if the evidence in both the batch of suits are considered conjointly and not separately.

#### **FACTS:**

4. First this court will consider the cases involving Sudhakar Reddy and then proceed to consider the other suits instituted by Bolla Arunakumari.

#### **A) Sudhakar Reddy Vs Vijayakumari & Pandurangan**

#### **Pleadings:**

5. There are three suits, and the suits are filed alternatively by Sudhakar Reddy and his rival: Tr.C.S.670 of 2009; C.S.446 of 2009; and C.S.433 of 2011. Of them, Sudhakar Reddy would be referred to as the plaintiff, and Pandurangan would be referred to as defendant. As stated earlier the defendant's wife Vijayakumari has a minimal role in this litigation, and she would be referred to either by name or when she has to be referred to in the company of her husband then it would be 'defendants'.

#### **6. Case of Sudhakar Reddy, the Plaintiff:**

- Plot No.12 in S.No.19/2 (which has since been sub-divided into Re.Sy.No.19/2A) and 19/2C measures an extent of 2,720 sq.ft., with a common passage. It is part of a larger extent, which belonged to a certain Philley J.Lawyer and one Arunachalam. On 16.9.1985, Darius Lawyer, son of Philley J. Lawyer along with Arunachalam sold plot No:12 to one Pramila, from whom the plaintiff had purchased it on 24.12.2008.
- Vijayakumari is the adjacent title holder of plot No:11 that lies to the east of plot No:12. She had purchased her plot from one Perundevi Ammal on 31.3.1997. In this plot, Pandurangan runs a liquor shop as a licensee of the TASMAL.
- Plot No.12 belonging to the plaintiff was lying vacant. It tempted

the defendant to trespass into it and to commit acts of waste by dumping his empty containers, broken bottles and gunny bags etc. This apart, the defendant runs a bar, with the active patronage of the officials who turned a blind eye to the nuisance which the defendant has been creating. Indeed even Pramila, the vendor of the plaintiff, had complained about it.

- The defendant was repeatedly required to remove the empty liquor bottles, but that was of no real use. This led to both Pramila and the plaintiff preferring complaints before the Police on 18.2.2009 and on 06.4.2009, but they evoked no response.
- However, the defendant and his wife Vijayakumari appeared to have collected the copies of the documents which the plaintiff had produced before the police, for soon Vijayakumari had laid a suit for a bare injunction in OS.No.2201/2009 before the VII Asst. City Civil Court against Pramila, The plaintiff, however was not a party.
- The constant attempts at trespass of plot No:12 continued, and attempts of the plaintiff to defend his possession were dismissed by the defendant with impunity as he resorted to intimidation through rowdies and his customers of his bar. In these circumstances the plaintiff chose to put up a compound wall around his plot.12. This led to the plaintiff laying his first suit in O.S.3856/2009 before XIV

Assistant City Civil Court (which since been transferred and now being considered in Tr.CS.670/2009) for a bare injunction.

- On 07.5.2009, the plaintiff had obtained an exparte order of interim injunction in that suit. On 11.5.2009, the plaintiff went to the spot to serve the said order of interim injunction on the defendant, but the defendant snatched and tore it, and continued to obstruct the plaintiff from constructing the compound wall around his plot No.12.
- Knowing full well about the order of interim injunction in O.S.No.3856/2009 filed by the plaintiff, on 18.5.2009, the defendant had laid CS.446/2009 before this Court by suppressing the suit which plaintiff had laid against him. In his suit the defendant claimed title to plaintiff's plot No:12 by adverse possession.
- As a part of their strategy, his wife Vijayakumarai withdrew her suit O.S.2201/2009 that she had filed against plaintiff's vendor Pramila.
- In the meantime, on the strength of the order of interim injunction, plaintiff had completed the compound wall. However on 02.6.2009, the defendant broke open the gate and took possession of Plot No.12 unlawfully and illegally. The plaintiff would then file necessary applications in his suit for injunction to take action for contempt against the defendant.
- The change of circumstances since the institution of Tr.C.S.670 of

2009, characterized by the defendant in instituting his own suit for declaration of title to plaintiff's plot by adverse possession coupled with his forcible taking of possession led to the plaintiff instituting C.S.433 of 2011 for declaration of title and recovery of possession along with damages at Rs.2.0 lakhs per month for unlawful occupation and use of plaintiff's plot from June, 2009 to 30.4.2011, amounting to Rs.46.0 lakhs, and also future damages at the same rate.

**Case of Pandurangan & Vijayakumari:**

7. Pandurangan (who is being termed as the defendant in this judgement) as plaintiff has filed C.S.446 of 2009, and he along with his wife Vijayakumari defends Tr.C.S.670 of 2009 and C.S.433 of 2011. As has been stated a few times, in C.S.446 of 2009, the defendant claims declaration of his title to Plot No.12. He alleges:

- That he has been carrying on business for vending liquor since 1986, under a valid and enforceable agreement with TASMAL.
- Plot No.12 was at a lower level than Plot No.11 and he had spent more than Rs.10.0 lakhs for filling it to make it even. At no time since 1986, he had paid any rent to anybody, nor anyone had asserted ownership over plot No:12 till date, nor had anyone ever attempted to dispossess him at any time. This defendant is using the suit property

for his transport business. He is in continuous enjoyment of plot 12 to the knowledge of the true owner for more than 26 years, and that he has perfected title by adverse possession over Plot 12.

- While so, the plaintiff and his vendor Pramila were attempting to disturb his peaceful possession and enjoyment of Plot No:12. In these circumstances, his defendant's wife Vijayakumari had laid O.S.No.2201 of 2009 on the file of VII Assistant City Civil Court for bare injunction against Pramila. However, no order of interim injunction was granted in that suit. Hence, both Pramila and the plaintiff have joined hands to disturb the defendant's possession over plot No:12. Hence the defendant approached the police but that hardly helped him.
- So far as the allegations in the plaint in Tr.C.S.670 of 2009 goes, it is contended that, while the plaintiff herein claims injunction with regard to Plot 12, with regard to the same plot in O.A.No.542/2009 the defendant had obtained an order of interim injunction dated 27.05.2009 in his suit in C.S.No.446 of 2009.
- The plaintiff has instituted Tr.C.S.No.670 for bare injunction and CS.No.433 of 2011 for recovery of the property on the same cause of action. The present suit therefore is hit by Order II Rule 2 CPC., This apart he takes conflicting and contradictory stands in both the suits.

Whereas in C.S.No.433 of 2011 he has admitted defendants' possession of plot no:12, in Tr.C.S.670 of 2009 he claims that he is in peaceful enjoyment of the same.

- There are no credible documents to show that the plaintiff indeed has been in continuous possession and enjoyment of the suit property right from the date of purchase in 1986, nor plaintiff's vendor was in possession of the suit property. Except for a few bills or receipts for purchase of bricks and some construction materials, there are no other materials produced to show that he was in continuous and peaceful possession of Plot No:12.
- So far as plaintiff's suit for recovery of vacant possession of plot No:12 in C.S.433 of 2011 is concerned, Bolla Arunakumari too claims title to the same plot. She had laid C.S.431 of 2011 on the strength of a sale deed dated 31-12-1985, and this sale deed also deals with plot No:12. Both the plaintiff and Bolla Arunakumari are represented by the same counsel, and it is apparent that the plaintiff has instigated Bolla Arunakumari to institute the suit. This apart, the suit property was acquired for Chennai Metropolitan Water Supply & Sewerage Board (henceforth CMWSSB), and hence plaintiff cannot claim title to plot No:12. Even proceedings under Sec.145 Cr.P.C. were initiated against the plaintiff.

8. The plaintiff (Sudhakar Reddy) did not file any written statement in C.S.446 of 2009 which Pandurangan has laid. Though it may be considered as a perilous flaw in procedure, yet, it is least likely to impact the outcome, for all the three suits were jointly tried, and the cross pleadings of the parties in at least two suits are adequate to take care of the stands of the plaintiff in C.S.446 of 2009. Indeed, issues too have been framed commonly. Inasmuch as in C.S.446 of 2009, the defendant claims declaration of his title by adverse possession, it should not be ignored that the initial burden of proving the same is on him.

9. On the above pleadings, the following issues are framed :

- 1) Whether Tr.S.C.No.670 of 2009 is hit by the principles of Order II Rule 2 of Civil Procedure Code?*
- 2) Whether C.S.No.433 of 2011 is maintainable in law, particularly when the plaintiffs had filed a suit in Civil Civil Court, on the same cause of action and subsequently transferred to this Court in Tr.C.S.No.670 of 2009?*
- 3) Whether the defendants in C.S.No.433 of 2011 acquired right, title and interest by adverse possession?*
- 4) Whether the defendants in C.S.No.433 of 2011 are encroachers on the property or not?*

- 5) *Whether the plaintiffs in C.S.No.433 of 2011 are entitled for delivery of possession of the suit property from the defendants?*
- 6) *Whether the plaintiffs in C.S.No.433 of 2011 are entitled for damages for the use and occupation of the suit property from the defendants in C.S.No.433 of 2011?*
- 7) *Whether the defendants in C.S.No.433 of 2011 encroached on the property even after knowing the injunction order obtained by the plaintiff in O.S.No.3856 of 2015 (Tr.C.S.No.670 of 2009)?*
- 8) *To what other relief the parties are entitled to?*

10. As indicated earlier, all the three suits went for a joint trial, and evidence was recorded in C.S.No.433 of 2011. In C.S.No.433 of 2011, the plaintiff was examined as P.W.1 and he produced Exts.P1 to Ext.P64. While the defendant stepped into the witness box for chief examination, he did not offer himself for cross examination and allowed it to be closed. In law, it has to be eschewed.

#### **B) Bolla ArunaKumari Vs Pandurangan & Vijayakumari**

11. Stopping it here, this Court now proposes to narrate the pleadings of Bolla Arunakumari and Kari Vijay Sarathi. They will be referred to as the plaintiff, whereas Pandurangan will be referred to as the defendant as in the

earlier case. His wife Vijayakumari, again has a limited role in the narration and she would be either referred to by her name where the context requires a reference to her, and if she is required to be referred to along with her husband, the spouses will be referred to as the defendants.

## **12. Case of Bolla Arunakumari & Kari Vijaya Sarathi**

**(Plaintiffs in CS.No.431 of 2011 & Tr.C.S.No.511 of 2013) :**

- On 31.12.1985 Bolla Aruna Kumari and Kari Vijaya Sarathi jointly purchased plot No.10 in S.No.19/2 & 19/12 correlated to Re.Sy.Nos.19/2A measuring an extent of 2,720 sq.ft., with a common passage originally from Darius P.Lawyer and one Arunachalam.
- Their immediate neighbours are the defendants (Pandurangan and his wife Vijayakumari) of whom Vijayakumari owns plot No:11 in which Pandurangan runs a liquor shop. Though the liquor shop is authorised, the defendant runs a bar without any licence.
- To support his bar-business he occupied the vacant plot No.10 belonging to the plaintiff and began running a restaurant for his customers. This was objected to by the plaintiffs, but it fell on deaf ears.
- Hence the plaintiff preferred police complaints on several occasions, but they evoked zero response. The owners that the plaintiffs are,

were not even allowed to enter their plot in No.10, and when attempted they were humiliated and intimidated by the goons of the defendants.

- The plaintiffs therefore, decided to put up a compound wall in the property as was done by Sudhakar Reddy, the owner of the plot at No.12. When on 12.5.2009, the plaintiffs attempted to put up the compound wall, the same was obstructed by the defendant with the latter holding out threats of dire consequences. This led to the plaintiff preferring O.S.No.4031 of 2009 for permanent injunction on the file of the City Civil Court (Vacation Court), which was since taken on record by the XVIII Assistant Judge, City Civil Court. On 22-07-2009, the Court came to pass an order of ad interim injunction against the defendant in I.A.7664 of 2009. (This suit was since transferred to this Court and now being considered in Tr.C.S.511 of 2013). Challenging that injunction order, the defendants had preferred CMA.No.82 of 2009 before the II Additional Judge, City Civil Court, and on 26.08.2010 that came to be dismissed. Undeterred, the defendant preferred CRP(PD) No.27 of 2011 before this Court, and this Court Vide its order dated 21.10.2011 dismissed the revision petition.
- Despite the injunction order staring at the defendant, he made

attempts to interfere with the property at Plot No.10 on several days. And, despite seeking police protection to implement the orders of the Court, the defendant with impunity put up a shed with corrugated aluminum sheets in Plot No.10. It is a blatant contempt of court.

- The defendant is a land-grabber, who not only has occupied plot No:10, but also the plot No.12 that belongs to Sudhakar Reddy.
- This apart, the defendants tried to rest title to the plot No:10 in the CMWSSB, when it has no title. Realising that the defendant and his wife are trying to set up a title by adverse possession over their property, the plaintiffs have laid C.S.431 of 2011 for declaration of their title and delivery of vacant possession along with damages for illegal occupation and use of her plot No:10 @ Rs.2,00,000/- per month from 6.10.2009 to 30.4.2011 totalling Rs.38.0 lakhs with future damages at the same rate.

### **Case of the Defendants:**

13. The defendants plead:

- The present C.S.431 of 2011 was laid when O.S.No.4031/2009 seeking mandatory and permanent injunction was pending for judgement. The plaintiffs suppressed the fact that they had instituted C.S.431 of 2011 while the other suit was pending before the City Civil Court.

- Neither of the plaintiffs are in possession of the property at any time. The suit is laid on the basis of a rectification deed dated 23.10.1986, but the extent stated in the sale deed and the rectification deed differ and no stamp duty is paid for the rectification deed. And, the plaintiffs have made no reference to the rectification deed in O.S.No.4031/2009.
- The suit property is described based on a plan dated 27.6.1986, and is not as per the rectification deed dated 23.10.1986. Consequently, the patta issued to the plaintiffs has no relevance. Besides, the land was acquired by CMWSSB, and hence neither of the plaintiffs have any right over plot No:10. It is therefore evident that the plaintiffs are not the owners of the property and they have no *locus standi* to maintain the suit. The suit is a vexatious litigation.
- The cause of action in both the suits are the same, and hence the second suit in C.S.431 of 2011 is hit by Order II Rule 2 CPC and the principles of *res judicata*. And, this was laid only after the plaintiffs had the knowledge that the CRP filed by the defendants was dismissed. Hence, the attitude and stand taken by them would prove that they are not approaching the Court with clean hands.
- This apart that documents that are marked by them during the trial of Tr.C.S.511 of 2013 as Ext.A3 to Ext.A12 are only photostat copies

and are inadmissible.

- The defendant had levelled the plot No:10, and the plaintiffs remained silent till the leveling operation was completed. Notices issued under Section 145 Cr.P.C., and that had been suppressed by the plaintiffs.

Suit is hence liable to be dismissed *in limini* with cost.

14. On the above pleadings, the following issues are framed:

*1)Whether C.S.No.431 of 2011 is hit by the principles of Order II Rule 2 of the Civil Procedure Code?*

*2)Whether C.S.No.431 of 2011 is maintainable in law particularly when the plaintiff had filed a suit in City Civil Court, on the same cause of action and subsequently transferred to this Court in Tr.C.S.No.511 of 2013?*

*3)Whether the defendants in C.S.No.431 of 2011 acquired right, title and interest by adverse possession?*

*4)Whether the defendants in C.S.No.431 of 2011 are encroachers on the property or not?*

*5)Whether the plaintiffs are entitled for delivery of possession of the suit property from the defendants?*

*6)Whether the plaintiffs are entitled for damages for the use and*

*occupation of the suit property from the defendants?*

*7)Whether the defendants are encroachers on the property even after knowing the injunction order obtained by the plaintiffs in O.S.No.3856 of 2015.*

*8)To what other reliefs the parties are entitled to?*

15. The suits went for trial and were tried jointly. The second plaintiff – Kari Vijaya Sarathi examined himself as P.W.1, and he has produced Exts.P-1 to P-38. On the side of the defendants, the second defendant has examined himself in chief as D.W.1, and as in the earlier batch of cases, he did not offer himself for cross examination and allowed the evidence to be closed on the side of the defendants.

### **Prelude:**

16.1 There are three adjacent plots: Plots 10, 11 and 12. And these plots and along with adjoining plots/property originally belonged to a firm of which a certain Philly Lawyer and Arunachalam were partners. While so, Philly Lawyer died, and his estate devolved on his son Darius P.Lawyer. He along with the other sharer of the property Arunachalam developed the entire property they had into a layout and sold them. This is not in dispute.

16.2 Of the three plots which are contextually relevant now, Bolla Arunakumari & another claim title to plot No:10 whereas Sudhakar Reddy claims title to plot No:12. There is no dispute that the middle plot (plot No:11) belonged to Vijayakumari, in which her husband runs a liquor shop as a licensee of TASMAL. Both the adjacent owners of the defendants claim that the latter had forcibly entered occupation of their respective plots on either side - on the east ( Plot No:10) and on the west (plot No:12). The defendants also do not deny it.

16.3 Now, insofar as the suit is for declaration of title by the title holders, the defendant has come out with different strategies to defend his possession. So far as Plot No:10 is concerned, he claims that the plaintiffs are not the owner and that this plot belonged to CMWSSB. The defendants also raise an issue as to the plot sold to Bolla Arunakumari & another based on certain mistakes crept in the sale deed in their favour in describing the property sold. Regarding plot No:12 the defendants claim prescription of title by adverse possession. Indeed with regard to plot No:12, the defendant has also filed an independent suit on the same line of his defence in the other two suits.

17. With no title in him to defend his possession, and with no intent on

display on the part of the defendants to prove their pleadings, there is hardly any need for narrating the arguments. This Court, however needs to record a word of appreciation for the counsel for the defendants for the indefatigable energy and enthusiasm in defending what may be stated as the indefensible. Wherever reference is required to be made to the arguments, the same will be stated and considered.

18. The issues framed can be brought under three major heads: (a) Title to the property; (b) If Order II Rule 2 CPC has a role to play; (c) Damages and its extent; and (d) Reliefs to be granted.

### **Title to Suit Property - Issues 3, 4 and 7:**

#### **(a) Title of Sudhakar Reddy Vs Pandurangan & another**

19. The plot in question is plot No:12. For declaring his title Sudhakar Reddy has laid C.S.433 of 2011 whereas Pandurangan has laid C.S.446 of 2009.

20.1 When once the defendant & his wife have pleaded adverse possession, both as plaintiff and as defendants, as the case may be, it goes with it that they have conceded the title of the plaintiff's over plot No:12. On 16-09-1985 Darius P. Lawyer and Arunachalam had sold plot No:12 to Pramila under Ext.P-8 sale deed, and the purchaser thereof had in turn sold the same

to the plaintiff Sudhakar Reddy Vide Ext.P-1 = P-9, dated 24-09-2008. This plot admittedly remained vacant. It is not in dispute that the plaintiff could not obtain any patta, since there was a wrong revenue classification indicating that plot No:12 was a revenue poromboke and that it was registered in the name of the TWAD Board. After purchase of plot No:12, Sudhakar Reddy along with his vendor Pramila had approached the revenue officials for correcting the classification of the property in the revenue records, and their efforts had commenced in 2009, as could be seen from Exts.P-11 to P-17, P-27 to P-30. The last of these documents(Ext.P-30) is the proceedings of the District Collector dated 03.03.2016, under which the mistake in classification of plot No:12 is directed to be corrected, which paved way for the plaintiff to enter his name in the revenue record as the registered owner of the property. Ext.P-8, P-1 = P-9 and Ext.P-30 makes it amply evident that the plaintiff is the title holder of the property.

20.2 The case of the defendants is two fold: (a) That this plot belonged to the TWAD Board (now the CMWSSB); and (b) that they had perfected title to plot No:12 by adverse possession. In addition they bring to the table certain discrepancies in the title document of Bolla Arunakumari (Ext.P-7) where the property dealt with was mentioned as plot No:12 instead of plot No:10.

21.1 These are alternative pleas merely, and in the end the defendants cared to establish neither. The plea floated by the defendants in vesting ownership in a third party TWAD Board was foreclosed when the Ext.P-30 proceeding was passed by the Collector. And, with regard to proof of his plea of adverse possession, the defendant did not even offer himself for cross examination and retires from the contest to sustain the strength of his core plea. It will be curious if not baffling to note that while the defendant has pleaded that he has been in continuous occupation of plot No:12 even prior to 1986, his wife had purchased plot No:11 only in 1997. With no evidence to show that the defendant (Pandurangan) might have had an opportunity to elbow out his adjacent owners from before 1986, there is every possibility to conclude that it could not have commenced from a date earlier than the date of Ext.P-6 under which his wife had purchased plot No:11. It needs to be underscored that the same defendant had laid C.S.446 of 2009 for declaration of his title over plot No:12 based on the same plea of adverse possession, and had even managed to hoodwink the Court in obtaining an order of interim injunction in OA 542 of 2009.

21.2 The next line of defendants' contention is founded on a misdescription of the plot sold under Ext.P-7 sale deed dated 31-12-1985 in favour of Bolla

Arunakumari. In this document, the plot sold was described as plot No:12, whereas the intent of the parties to the said document was to deal with plot No:10. This document, however was rectified by another registered document dated 23-10-1986. (It was not marked in the present suit, but has been marked as Ext.P-2 in the suits instituted by Bolla Arunakumari).

21.3 Turning to the effect of this misdescription on the title of Sudhakar Reddy to his plot No:12 is concerned, his vendor Pramila was not a party to the said document and consequently it cannot bind him. Secondly, the defendants cannot pretend innocence either since in their own Ext.P-6 sale deed shows that their plot No:11 was bounded on the east by plot No:10 and on the west by plot No:12. Thirdly, he himself has laid C.S.446 of 2009 against the plaintiff claiming title over plot 12 on a plea of adverse possession. Fourthly, his wife Viyakumari had earlier laid Ext.P-2 suit in O.S.2201 of 2009 against the plaintiff's vendor Pramila, and it deals with plot No:12. Therefore when the defendants knew even prior to the institution of the first suit by the plaintiff in O.S.3856 of 2009 (now Tr.C.S.670 of 2009) knew the plot that they have been keen to grab at that relevant time, it is evident that they are only attempting to salvage some points to sustain their illegal possession with a desperate a plea. What a way to camouflage an intent at land-grabbing!

22. To conclude this point, this Court finds that the plaintiff is the title holder to the suit property in Plot 12 and with defendants' assertion of title based on adverse possession failing, they are held to be in illegal occupation of the property. Consequently, the plaintiff is entitled to have the vacant possession of the suit property.

**(b) Of Bolla Arunakumari & another Vs Pandurangan & another:**

23. Here the plaintiffs have laid two suits, of which C.S.431 of 2011 is intended for declaration of their title over Plot No:10.

24. Under P-1 sale deed dated 31-12-1985 Bolla Arunakumari along with D.W.1 had jointly purchased a plot from the same vendors who had sold plot No:12 to Sudhakar Reddy. The intent was to purchase plot No:10. However, Ext.P-1 sale deed mistakenly had described the plot sold as Plot No:12 instead of plot No:10. Hence the parties to the sale deed had entered into a Rectification Deed to correct the plot number sold to Plot 10 Vide Ext.P-2, dated 23.10.1986. It may be stated here that in terms of Ext.P-8 in the suit laid by Sudhakar Reddy, Pramila had purchased plot No:12 even on 16-09-1985, a few months before the aforesaid Ex.P-1 sale deed that the plaintiffs in this batch of cases have produced. This would imply that on the

date of sale in favour of Bolla Arunakumari & D.W.1, their vendors did not have any title over plot No:12 for them to convey. Turning to revenue classification of the plot No:10, even Bolla Arunakumari faced the same problem that Sudhakar Reddy faced, and this was resolved by the same proceedings of the District Collector, dated 03-03-2016 which Sudhakar Reddy has relied on in his suits. This document was marked in this suit as Ext.19 (and the same document is marked in the suit laid by Sudhakar Reddy as Ext.P-30). These documents do establish that the plaintiffs in C.S.431 of 2011 are the title holders of plot No:10.

25.1 So far as the defence goes, the defendants' primary contention even in their written statement is that there is a discrepancy in describing the plot in Ext P-1 sale deed, and that Ext.P-2 rectification deed was not adequately stamped. Considerable arguments were advanced with authorities to support it, but they hardly impressed this court so much so that this court does not even consider it necessary to state them in detail.

25.2 If the quality of the defence is evaluated, it is not any discovery to shock the conscience of this Court for the parties to Ext.P-1 sale deed themselves had realised this mistake viz-a-viz the description of the plot sold. And they wasted no time when they entered into Ext.P-2 in the very

next year in 1986, when the defendants were nowhere in the scene. To repeat the defendants or rather Vijayakumari had purchased plot No:11 only in 1997. Shifting to the merit of the contention that Ext.P-2 was not adequately stamped is concerned, these pretenders at law are told that correcting a mistake is not the same as conveyance. To expatiate it, under Ext.P-1, the title over plot 12 could not be

conveyed, as it was already sold to Pramila. And with no change in consideration paid under Ext.P-2, if the plot that was wrongly dealt with under Ext.P-1 was substituted by the one which was intended to be transacted, there is hardly any need for payment of any stamp duty. This defence fails, the valiant efforts of the learned counsel appearing for the defendants notwithstanding.

26. Now, what is the *locus standi* of the defendants to question the title of the plaintiffs anyway? They admittedly are not the title holders of plot No:10. And, unlike the suit instituted by Sudhakar Reddy, they do not even claim title by prescription over plot No:10. And Pandurangan, the defendant, by his own stands admits to his shameless occupation of his neighbours' plot in plot No:10. Since when has the law permitted a trespasser to challenge the title of the true owner? It is true that in a suit for

declaration of title the initial burden of proof is only on the plaintiff, yet it is not given to a rank trespasser of the property to raise defences that they are hardly entitled to plead.

27. This Court has very little difficulty in holding that the plaintiffs in C.S.431 of 2011 are the title holders of plot No:10 and they are entitled to have their suit property in plot No:10 delivered to them.

**Order II Rule 2 CPC & Maintainability (Issues 1 & 2 in both the batch)**

28. The second of the defences is that both Sudhakar Reddy and Bolla Arunakumari have respectively instituted O.S.No.3856 of 2009 (now Tr.C.S.No.670 of 2009) and O.S.4031 of 2009 (now Tr.C.S.511 of 2013), for bare injunction, and followed them with separate suits in C.S.433 of 2009 and 431 of 2009 for declaration of their respective title over plots 12 and 10 and for other consequential reliefs. The defendants contend that reliefs in both the suits rest on the same cause of action of respective first suits, and in fitness of things, they ought to have sought all the reliefs that they had sought in their second suit even in their first suit, and hence the second suits that have been filed are not sustainable in view of the bar under Order II Rule 2 CPC.

29. This is another far fetched defence. A suit for a bare injunction presupposes the existence of a title as supporting a lawful possession, but declaration pertains to that very title. In the former a suit is necessitated when possession is threatened, and in the latter situation, a suit becomes necessary when there is a perceptible challenge to the title. The core facts may remain the same, but not the cause of action. Turning to specifics, in terms of the pleadings in both the set of suits, the allegation is that since the filing of the first set of suits for bare injunction, the defendants had completed trespass of both plots 10 and 12. This saves the second suit from the ambit of Order II Rule 2 CPC. Necessarily, this defense too fails.

**Damages: (Issues 6 in both the batch)**

30. This Court found title in favour of the plaintiffs (Sudhakar Reddy, and Bolla Arunakumari & another) respectively over plots 12 and 10. And, the defendants did not trouble the Court to probe through a maze of facts to enter a finding that they had illegally occupied plots 12 and 10, as they had admitted their possession. As their possession of these plots is without a semblance of lawful title or right of occupation, they are duty bound to pay damages for the forced occupation of the plots that are not their own to the those whose right of ownership these defendants have most consciously and

most violently invaded.

31. As far as damages goes, it is discussed under two heads: First, the principles underlying the measure of damages; and secondly, the actual quantum of damages.

32. The plaintiffs in both the set of suits claim damages for illegal occupation of their respective plots at the rate of Rs.2.0 lakhs per mensem. They have paid Court fee for the past damages and the details of their claim are as below:

| <i>Suit No.</i>  | <i>Past Damages claimed</i>                                                                                                                                                                            | <i>Court fee paid</i> |
|------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| CS.No.431 / 2011 | Rs.38,00,000/- (at the rate of Rs.2,00,000/- per month for 19 months i.e., 06.10.2009 to till 30.4.2011)                                                                                               | Rs.41,525/-           |
| CS.No.433 / 2011 | Rs.49,50,000/-. This includes past damages from June 2009 till 30.4.2011 (23 months) i.e., Rs.46,00,000/- + expenses towards construction of compound wall at Rs.3,50,000, totalling to Rs.49,50,000/- | Rs.53,025/-           |

### **A. On Measure of Damages**

33.1 An understanding of the measure of damages for a tortious wrong affecting right to property requires an upgrading as it is no more a mere civil

wrong, but constitutes a violation of human rights ever since right to property has become a facet of human rights jurisprudence. See: **State of Haryana Vs Mukesh Kumar & Others** [(2011)10 SCC 404]. Therefore, approaching a plea of adverse possession, and appreciating the evidence in search for its proof demands greater care than before. Being a facet of human rights, not just the State, every individual should withhold the temptation of treading on another man's property. A tortious act of trespass to property thus assumes a different dimension, and this cannot be disregarded while understanding the measure of damages.

33.2 Rule of law is both preventive and ameliorative. And here in this case, this Court witnesses a set of defendants who yield to their greed, and have gone about a mindless assault on the right of the owners of two plots, and challenge its authority. This Court even witnessed them delivering sermons and scriptures on burden of proof and fairness, and how the title holders had failed to establish their title, forgetting for a moment that they do not have an inch of land beyond the boundaries of their plot No:11. *See: Anathula Sudhakar V. P.Buchi Reddy* [(2008) 4 SCC 594] and *Arulmigu Velukkai Sri Azhagiya Singaperumal Devasthanam, Rep by its Trustees Vs. G.K.Kannan (Deceased)* [2020-2-LW 317]. Law is often ridiculed as an ass, and here are the defendants who actually attempt to make it look like

one. There is a continuous wrong and an aggravated wrong too.

33.3 How then the plaintiffs be compensated? They have sought in their respective plaints damages at Rs.2.0 lakh per mensem and seek a decree for past damages and future damages at the same rate. And, on their prayer for past damages they have paid requisite court fee too.

34.1 Is a decree for restitution of wrongful gain which a wrongdoer had earned to the one whose rights are wronged adequate enough damages? To state it differently, whether restoration of mesne profits to the plaintiff restore status quo ante – where the plaintiff would have been before the trespass? Sec.2(12) of the Code of Civil Procedure, 1908, defines *mesne* profits as “*profits which the person in wrongful possession of .... property has actually received or might with ordinary diligence have received therefrom...*” Is then the concept of *mesne* profits as defined in the procedural law a substantive and conclusive statement on the measure of damages in tort?

34.2 If an understanding of the measure of damages for trespass is limited to this definition and considered as the exclusive repository of the law of damages for trespass, it instantly implies that a defendant in illegal

possession of a property is conferred an unmerited patronage to seize an undeserving premium for his wrongful possession. To expatiate it, if a defendant is prepared to pay the *mesne* profits as defined and no more, he may be encouraged to do that which is prohibited. After all he has to restore in restitution that which he has earned. It then would be defendant centric. It, however neither addresses the wrong nor the damages which the plaintiff was forced to suffer owing to the wrong. To illustrate it, if an owner of a property leases his property he would be earning a rent. The same rent one in wrongful possession will also earn. If damages were to be a mere restitution of the profits wrongfully earned, it transfers the benefits so earned to the owner, but the wrong still is waiting to be compensated and punished. Thus, if an understanding of damages is limited to a decree for *mesne* profits as a levelling component for neutralizing the burden resulting from trespass, it will be a negation of unliquidated damages as a consequence for a tortious wrong.

35. The felicitous observations of Lord Shaw in ***Watson Laidlow & Co Ltd v Pott Cassells & Williamson*** [(1914) 31 RPC 104 ] is illustrative in the context:

*“It is at this stage of the case, ... that a second principle comes into play. It is not exactly the principle of restoration, either directly or expressed through compensation, but it is the principle underlying price*

*or hire. It plainly extends — and I am inclined to think not infrequently extends — to patent cases. But, indeed, it is not confined to them. For wherever an abstraction or invasion of property has occurred, then, unless such abstraction or invasion were to be sanctioned by law, the law ought to yield a recompense under the category or principle, as I say, either of price or of hire. If A, being a liveryman, keeps his horse standing idle in the stable, and B, against his wish or without his knowledge, rides or drives it out, it is no answer to A for B to say: ‘Against what loss do you want to be restored? I restore the horse. There is no loss. The horse is none the worse; it is the better for the exercise.’ I confess to your Lordships that this seems to me to be precisely in principle the kind of question and retort which underlay the argument of the learned counsel for the appellants about the Java trade .... in such cases it appears to me that the correct and full measure is only reached by adding that a patentee is also entitled, on the principle of price or hire, to a royalty for the unauthorised sale or use of every one of the infringing machines in a market which the infringer, if left to himself, might not have reached. Otherwise, that property which consists in the monopoly of the patented articles granted to the patentee has been invaded, and indeed abstracted, and the law, when appealed to, would be standing by and allowing the invader or abstractor to go free.”*

36.1 Mesne profits as defined is a concept of procedural law, and not a principle of substantive law of torts, and in the procedural scheme of the Code of Civil Procedure, it has significance essentially under Order XX Rule 12 CPC, but it is merely procedural in nature. See **Sadabai Manikchand Bora v Nivrutti Takale**, [AIR 1979 Bom 29]. A procedural

provision is adjunct to the substantive law of tort, and it does not have the legislative strength to supersede it. As was pointed out by Lord Woolf CJ in ***R v Sekhon*** [2003 1 WLR 1655] :

*“The purpose of rules of procedure is not usually to give or take away a court's jurisdiction. It is the substantive provisions of the legislation creating the power or duty of the court which have given the jurisdiction, here under subsections (1) and (2) of section 71 above. What the procedural provisions are doing is to provide a convenient and just machinery enabling the court to exercise its jurisdiction.”*

36.2 A Trespasser's liability should be one of reparation of which restitution is a part, but not the whole of it. Definitionally mesne profits is restitutionary as it is defendant centric whereas tortious liability for wrongful possession ought to be plaintiff centric. In ***Satyappa Kaliappa Patil Vs Balagouda Sultanagouda Patil*** [1981 SCC OnLine Kar 316 : ILR 1982 Karnataka 1265] and ***Sarayya Vs Vinnakota Savitramma*** [(1978)1 APLJ 427 (AP)] court understood a decree for mesne profits as one for a tortious liability, but it is not exhaustive.

37.1 In ***Ramaswami Chettiar v N. Suppiah Chettiar*** [AIR 1935 Mad 699], the learned trial judge had granted a decree for exemplary damages for trespass. It was sought to be contended that the award of exemplary damages in an action for trespass was unheard of in our jurisprudence.

Rejecting this contention, Venkatasubba Rao, J opined as under:

*“It is settled law that in an action for trespass to land, substantial damages may be recovered, though no loss or diminution in value of property may have occurred. (Pollock on Torts, 13th Edn. p 194). The learned author points out that in an action for a wanton trespass on land persisted in with violent and intemperate behaviour, the juries are, with the open approval of the Courts, in the habit of allowing exemplary damages: (Ibid). In such cases the principle of restitutio in integrum does not apply, for the damages that are awarded, are intended to express indignation at the defendant's wrong rather than to recompense the plaintiff for his loss: (10 Hals. Hailsham Edn. p. 97). On the evidence there can be no doubt that the conduct of the defendant **must be held to have been high-handed and his trespass wanton and malicious.**”*

These observations were quoted with approval by N. Chandrasekhara Ayyar, J (as he then was) in ***Lala Punnalal v Kasturichand Ramaji*** [AIR 1946 Mad 147]. The learned judge has ventured to state the law thus:

*“The award of exemplary damages in cases where the defendant has acted contumeliously is sanctioned not only by English law but also by decisions of this Court applying the Indian law. For instance in Venkatappayya v. Ramakrishnamma Venkatasubba Rao and Pakenham Walsh, JJ., gave exemplary damages in a case of malicious prosecution and raised the amount from Rs. 500 fixed by the lower Court to Rs. 1,500 fixed by themselves as adequate in the circumstances of the case before them. **Finding that the conduct of***

***the defendant before him was high-handed and his trespass wanton and malicious, Venkatasubba Rao, J., confirmed the award of exemplary damages** in the decision in *Ramaswami Chettiar v. Supiah Chettiar* pointing out that in such cases the principle of *restitutio in integrum* did not apply.”*

These decisions of this Court highlight that in assessing the award of damages for tortious liability, the Court does not merely look at compensating the plaintiff, but should, in suitable cases, impose exemplary damages as a deterrent to such conduct in the future.

37.2 In *Broome v Cassel & Co Limited* [1972 AC 1027] the House of Lords observed :

*“It is intended to teach the defendant and others that **“tort does not pay”** by demonstrating what consequences the law inflicts rather than simply to make the defendant suffer an extra penalty for what he has done, although that does, of course, precisely describe its effect.”*

38. The principle which emanates from the foregoing is that the measure of damages for tortious wrong need not be restricted either to the concept of compensatory or restitutionary damages, more so where the assault on rights is conscious, remorseless and continuous. While compensatory damages

focuses on the loss caused to the plaintiff, the concept of restitutionary damages focuses on transferring the gains made by the defendant from his wrongful acts. Damages for a tort must therefore, be understood as a composite of unliquidated damages for the wrong, and the restitution of that which a tortious wrong has enabled the defendant to earn. It may be stated that while evaluating damages payable, the legal system has excessively worried about not gifting the plaintiff with a windfall, but is it not necessary for it to ask the the defendant, “*Hey, why did you enter upon another man’s land, and denied him the right to enjoy it?*” This attitude, traditionally cultivated, can upset the very equation in justicing a wrong. It is not contract but tort. Windfall or downfall, let it be the making of the owner of the property. He is the owner and it is his right after all. Let it not therefore be dictated by the defendant.

39.1 Elsewhere in this judgement it was indicated that rule of law is both preventive and ameliorative. Law demands submission to its rules, and amelioration is its response when obedience to law is ignored, and prevention is breached. But focus of rule of law is, and at all times ought to be, to exact submission of those whom it binds. It therefore does not, and cannot, distinguish between a criminal wrong and a civil wrong. They are merely statutory or a common law response to a wrong merely, and by

themselves do not classify or qualify the need for submission to the rule of law. When law says do not enter upon another man's land merely because damages might answer the wrong that does not take away the need to prevent the wrong. Accordingly, the measure of damages must be reparatory, and in cases of aggravated wrong it may have to be punitive and deterrent. Measure of damages with a deterrent tone does not imply that existence of a fear element, as is generally believed, must be a necessary component. It can be an expression of law to subordinate those who may yield to the temptation of breaching its rules. It needs to be underscored that ameliorative responses of law are no substitute to its anxiety to prevent a wrong.

39.2 Lord Devlin in ***Rookes v Barnard*** [1964 AC 1129] observes as under :

*“But when this has been said, there remains one class of case for which the authority is much more precise. It is the class of case in which the injury to the plaintiff has been aggravated by malice or by the manner of doing the injury, that is, the insolence or arrogance by which it is accompanied. There is clear authority that this can justify exemplary damages, though (except in *Loudon v. Ryder* it is not clear whether they are to be regarded as in addition to, or in substitution for, the aggravated damages that could certainly be awarded.”*

In ***Inverugie Investments Limited v Hackett*** [1995] 1 WLR 713, the Privy Council observed that the landlord of residential property, can recover damages from a trespasser who has wrongfully used his property whether or not he can show that he would have let the property to anybody else, and whether or not he would have used the property himself. The underlying principle in these cases is the “*user principle*.” The plaintiff may not have suffered any *actual* loss by being deprived of the use of his property. But under the user principle he is entitled to recover a reasonable rent for the wrongful use of his property by the trespasser. Similarly, the trespasser may not have derived any actual benefit from the use of the property. But under the user principle he is obliged to pay a reasonable rent for the use which he has enjoyed. The Privy Council concluded that the principle need not be characterised as exclusively compensatory, or exclusively restitutionary, but it combined elements of both. In a later decision in ***Horsford Vs Bird*** [2006 UKPC 3], the Privy Council clearly recognized the jurisdiction of Courts to award exemplary/aggravated damages for the oppressive conduct of the defendant. The Board observed thus:

*“It is well established that trespass to land accompanied by high-handed, insulting or oppressive conduct may warrant an award of aggravated damages. The award in such a case is to compensate the plaintiff for the distress and injury to his feelings caused by the conduct in question (see Halsbury's Laws – 4th Ed., Vol 12(1), Para.1114).”*

40. Unliquidated damages may not be the actual as in compensatory or restitutionary principles of assessing damages. Indeed, the mechanism for computation of mesne profits as provided in Order XX Rule 12 CPC represents only “*one of the ways*” and not the “*only*” way of computing damages for wrongful use and occupation of property. Even in the context of Order XX Rule 12 CPC, it is well settled that it is permissible for the Court to determine the quantum of damages without directing an inquiry. In ***Vella Veeran Chetti Vs Veeran Chetti***, [AIR 1938 Mad 727], a Division Bench of this Court has observed thus:

*“It is therefore perfectly competent to the Court, without directing an inquiry, to pass a decree finally determining the amount of profits payable subsequent to the institution of the suit if it is made out that it is not necessary to make such an inquiry, and it cannot be said that such a decree is not final or is incapable of execution nor would it be in contravention of the provisions of Order XX, rule 12, Civil Procedure Code.”*

This decision was subsequently followed by another Division Bench of this Court in ***Dayanandammal v St Thomas Tamil Church*** [(1994) 1 MLJ 51] wherein it was observed as under:

*“Thus, there can be no doubt whatever that, in law, the court is entitled to pass a decree for mesne profits without holding an enquiry under Order 20, Rule 12, C.P.C. In fact, the language of the rule is very*

*clear. The Rule provides that the court may pass a decree for mesne profits or direct an enquiry as to such mesne profits. See : Clauses (ba) of Rule 1. Thus two alternatives are provided and it is always open to the court to straightaway pass a decree for mesne profits.”*

41. Justice will have relevance to the one who seeks it only when the Court raises its bar to modulate its response proportionate to the gravity of the wrong. *Tort not only does not pay but also knows to hit back.* And, the one who inflicts an injury must have moments to rue.

42.1 The two batch of cases now under consideration are classic instances of highhanded trespass. These defendants knew well that neither plot 10 nor plot 12 belong to them. They had their moments to correct their attitude to retract themselves from a point to which their avarice has driven them. They did not. Instead they contested the suits till the end with no right to support or sustain their illegal possession. Incidentally is their case a success story that our slow-paced legal system has unwittingly scripted? Or is it their plain manipulation of the system? Either way, the defendants could keep the plaintiffs at bay for about 12 years now. This Court will have zero relevance to the plaintiffs if the brazen wrong, nay a calculated assault on their right to property by these defendants is inadequately compensated. This Courts therefore opts to grant a decree for unliquidated

damages which is justly reparatory, and declares to the world that *tort can hit back, and, that it indeed has hit back the defendants in this case.*

42.2 In this endeavour, this Court is also guided by the following excerpts from the judgement of the Hon'ble Supreme Court in ***A.Shanmugam Vs. Ariya Kshatriya Rajakula Vamsathu Madalaya Nandhavana Paripalanai Sangham, Rep. By its President and others*** [(2012) 6 SCC 430], the Hon'ble Supreme Court has held:

*“34. Experience reveals that a large number of cases are filed on false claims or evasive pleas are introduced by the defendant to cause delay in the administration of justice and this can be sufficiently taken care of if the courts adopt realistic approach granting restitution.*

*36. Unless wrongdoers are denied profit or undue benefit from frivolous litigations, it would be difficult to control frivolous and uncalled-for litigations. Experience also reveals that our courts have been very reluctant to grant the actual or realistic costs. We would like to explain this by giving this illustration. When a litigant is compelled to spend Rs.1 lakh on a frivolous litigation there is hardly any justification in awarding Rs.1000 as costs unless there are special circumstances of that case. We need to decide cases while keeping pragmatic realities in view. We have to ensure that unscrupulous litigant is not permitted to derive any benefit by abusing the judicial process.*

*38. False averments of facts and untenable contentions are serious problems faced by our courts. The other problem is that litigants*

*deliberately create confusion by introducing irrelevant and minimally relevant facts and documents. The court cannot reject such claims, defences and pleas at the first look. It may take quite some time, at times years, before the court is able to see through, discern and reach to the truth. More often than not, they appear attractive at first blush and only on a deeper examination the irrelevance and hollowness of those pleadings and documents come to light.*

*39. Our courts are usually short of time because of huge pendency of cases and at times the courts arrive at an erroneous conclusion because of false pleas, claims, defences and irrelevant facts. A litigant could deviate from the facts which are liable for all the conclusions. In the journey of discovering the truth, at times, this Court, at a later stage, but once discovered, it is the duty of the court to take appropriate remedial and preventive steps so that no one should derive benefits or advantages by abusing the process of law. The court must effectively discourage fraudulent and dishonest litigants.*

*43.4. Once the court discovers falsehood, concealment, distortion, obstruction or confusion in pleadings and documents, the court should in addition to full restitution impose appropriate costs. The court must ensure that there is no incentive for wrongdoer in the temple of justice. Truth is the foundation of justice and it has to be the common endeavour of all to uphold the truth and no one should be permitted to pollute the stream of justice.*

*43.5 It is the bounden obligation of the court to neutralise any unjust and/or undeserved benefit or advantage obtained by abusing the judicial process.”*

The conduct of the defendants is a loud and an arrogant statement on their ability to manipulate judicial process with pleas whose plausibility and tenability even they did not believe. It has been a grand exhibition of their fine art in abusing judicial process for gaining and sustaining an unfair advantage in occupying plots which are not their own. The evidence on record in both the set of suits is replete with several police complaints. If only some officials have responded at sometime, the owner's right to enjoy their property could have been secured. It is very unfortunate that TASMACH authorities have not even chosen to ascertain if its licensee has illegally occupied others property for running the business. It is evident that the State's machinery appears to have patronised it by consciously blindfolding itself to its patent illegality when it was under a duty to act.

### **Damages - Quantum:**

43. Turning to the question of damages payable, while Sudhaker Reddy in his suit in C.S.No.433 of 2011 claims past damages of Rs.49.50 lakhs, calculated at Rs.2,00,000/- per month, Bolla Aruna Kumari & her co-title holder have claimed Rs.38,00,000/- as past damages for a lesser period in C.S.431 of 2011. As stated earlier both have paid requisite Court fee for the damages. The unliquidated damages may have to be fixed within this limits.

**A. Sudhakar Reddy Vs Pandurangan & another**

44.1 In C.S.No.433 of 2011, Sudhakar Reddy has claimed damages at Rs.49.50 lakhs. This Court now moulds the relief and directs the defendants to pay him Rs.35,00,000/- as unliquidated damages for their illegal occupation of plot No:12. The plaintiff is entitled to post decretal future damages at the rate of Rs.5.0 lakhs annually.

44.2 In addition, in C.S.No.446 of 2009 on a fake plea, the defendants have even managed to obtained an order of injunction in O.A.542 of 2009 by suppressing O.S.No.3856 of 2009 (now Tr.C.S.No.670 of 2009). This Court now finds that there is no lawful basis even for moving the Court for an order of injunction. This Court finds that the plaintiffs are entitled to damages of Rs.50,000/- under Sec.95(b) CPC.

**B. Bolla Arunakumari & another Vs Pandurangan & another**

45. In C.S.No.431 of 2011, Bolla Aruna Kumari & another have claimed damages at the rate of Rs.38,00,000/-. Here again, this Court directs the defendants to pay a sum of Rs.35.0 lakhs as unliquidated damages for their illegal occupation of plot No:10. They are also entitled to post decretal future damages at the rate of Rs.5.0 lakhs annually.

**46. Reliefs - The approach (Issues 5 and 8 in both the batch of suits)**

- (a) The injunction suits were laid when the defendants attempted a trespass. But by subsequent change of circumstances, the declaratory suits with prayer for recovery of possession have been filed. Therefore beyond providing an element of introductory value to the title-suits, the suits for bare injunction do not require a relief.
- (b) The suits for declaration & recovery of possession with damages have to be decreed.
- (c) The over-ambitious suit in C.S.446 of 2009 that the defendant (Pandurangan) had laid invites a decree of dismissal.
- (d) For the enormous energy in defending the suits from a position indefensibility, and compounding it with a suit for declaration of title in C.S.446 of 2009 without any cause for an action, there will be an order for exemplary costs.
- (e) Since this Court has every reason to believe that scruples and these defendants are separated by considerable distance, for doing complete justice to the plaintiffs, there ought to be a provision in the decree to

secure payment of the damages and costs that this Court grants to the plaintiffs. This Court therefore, proposes to create a charge over the property that stands in the name of one of the defendants: Plot No:11. It is true neither of the plaintiffs in either of the batch of cases have sought a decree to that effect, nor plot No:11 is a subject matter of the suit. But extraordinary situations demand extraordinary response from the Court. This Court often hears loud statements on fairness to defendants and substantial justice for them. Is it not time that the court also sensitized itself to be fair equally to the one who knocked its doors in desperation with a voiceless cry for justice?

#### **47. Conclusion:**

##### **A. Tr.C.S.670 of 2009 and C.S.433 of 2011 & C.S.446 of 2009**

##### **(Sudhakar Reddy Vs Pandurangan & another)**

- (a) Tr.C.S.670 of 2009 is dismissed without costs as having become infructuous.
- (b) C.S.433 of 2011 is decreed with exemplary costs and the plaintiff's title to the suit property is declared. There will be a further decree directing the defendants to vacate and surrender vacant possession of the suit property to the plaintiff within a period of five weeks from today.

- (c) The defendants are directed to pay a sum of Rs.35.0 lakhs as consolidated unliquidated damages to the plaintiff and post decretal future damages at Rs.5.0 lakhs per annum.
- (d) C.S.446 of 2009 is dismissed with exemplary costs.
- (e) There will be a charge on the property covered under Ext.P-6 (Plot No:11 referred to in the judgement and purchased in the name of Vijayakumari, the 2<sup>nd</sup> defendant in the suit) to the extent of all the damages and costs payable to the plaintiff.

**B. Tr.C.S.No.511 of 2013 and C.S.No.431 of 2009**

**(Bolla Aruna Kumar & another Vs. Pandurangan & Vijayakumari)**

- (a) Tr.C.S.511 of 2013 is dismissed without costs as having become infructuous.
- (b) C.S.431 of 2011 is decreed with exemplary costs and the plaintiff's title to the suit property is declared. There will be a further decree directing the defendants to vacate and surrender vacant possession of the suit property to the plaintiff within a period of five weeks from today.
- (c) The defendants are directed to pay a sum of Rs.35.0 lakhs as consolidated unliquidated damages to the plaintiff and post decretal future damages at Rs.5.0 lakhs per annum.

(d) There will be a charge on the property covered under Ext.P-8 (Plot No:11 referred to in the judgement and purchased in the name of Vijayakumari, the 2<sup>nd</sup> defendant in the suit) to the extent of all the damages and costs payable to the plaintiff.

**Note to Office :**

Registry is required to communicate a copy of the decree to the concerned Sub Registry to notify the charge created by this Court.

**APPENDIX**

**I. C.S.No.431 of 2011**

**I. Witnesses :**

|                            |                     |
|----------------------------|---------------------|
| <b><i>Plaintiffs :</i></b> |                     |
| PW1                        | Kari Vijaya Sarathi |
| <b><i>Defendants :</i></b> |                     |
| DW1                        | K.Pandurangan       |

**II. Exhibits :**

|        |            |                                                                                                                                                                |
|--------|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ext.P1 | 31.12.1985 | Sale deed executed in favour of Mrs.Bolla Aruna Kumari & Mr.Kari Vijaya Sarathi, the plaintiffs in C.S.No.431 of 2011 & Tr.C.S.No.511 of 2013 by their vendors |
| Ext.P2 | 23.10.1986 | Rectification Deed executed in favour of the plaintiffs in C.S.No.431 of 2011 & Tr.C.S.No.511 of 2013 by their vendors                                         |
| Ext.P3 |            | Plan                                                                                                                                                           |
| Ext.P4 | 09.02.2009 | Encumbrance Certificate regarding S.No.19/2A, 19/12 & in Koyambedu Village                                                                                     |
| Ext.P5 | 13.02.2009 | Encumbrance Certificate regarding S.No.19/2, N.S.No.19/2A & 19/2C, New No.19/9 in Plot No.6                                                                    |
| Ext.P6 | 23.02.2009 | Reply by Assistant Director, Office of the District Land Survey & Records Department in response to RTI information sought by Daisy Rani                       |
| Ext.P7 | 17.04.2009 | Letter from Asst. Director-PA to Collecot, District Land Survey & Records Department, Chennai-1,                                                               |

|         |            |                                                                                                                                                     |
|---------|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
|         |            | addressed to General Manager, CMWSSB                                                                                                                |
| Ext.P8  | 31.03.1997 | Sale Deed executed in favour of P.VijayaKumari, 1 <sup>st</sup> defendant in C.S.No.431 of 2011 & Tr.C.S.No.511 of 2013                             |
| Ext.P9  |            | Photographs                                                                                                                                         |
| Ext.P10 | 22.07.2009 | Order copy in I.A.No.7664 of 2009 in O.S.No.4031/2009                                                                                               |
| Ext.P11 | 27.11.2009 | Letter addressed to the Special Commissioner Land Administration, Ezhilagam, Chennai-5 by Pramila & 10 others regarding rectification in the patta. |
| Ext.P12 | 01.12.2009 | Reminder to the letter dated 27.11.2009, given by Premela                                                                                           |
| Ext.P13 | 26.08.2010 | Order copy in CMA.No.82 of 2009                                                                                                                     |
| Ext.P14 | 21.01.2011 | Order copy in CRP(PD) No.27 of 2011                                                                                                                 |
| Ext.P15 | 20.11.2009 | Petition in I.A.No.18368 of 2009 in O.S.No.4031 of 2009 filed by the plaintiffs seeking police protection                                           |
| Ext.P16 | 25.01.2012 | Proceedings of the District Collector issued to the plaintiffs                                                                                      |
| Ext.P17 | 25.09.2013 | Special Power of Attorney executed by Mrs.T.Indirani and others in favour of Mr.K.Mohanasundaram                                                    |
| Ext.P18 | 20.11.2015 | Encumbrance Certificate for the period 01.01.2000 to 18.11.2005                                                                                     |
| Ext.P19 | 03.3.2016  | Proceedings of the District Collector, Chennai in J1/52532/2015                                                                                     |
| Ext.P20 | 03.02.2014 | Letter to the Principal Secretary and Commissioner of Land Administration by the District Collector                                                 |
| Ext.P21 | 08.03.2016 | Letter addressed to Mrs.Daisy Rani by the Public Information Office cum Head Quarters Deputy Tahsildar, Chennai-107.                                |
| Ext.P22 | 02.08.2016 | Petition filed by Mr.P.Ravi Pachamoothoo in Crl.OP.No.20264 of 2016 before this Court seeking Anticipatory Bail.                                    |
| Ext.P23 | 05.09.2016 | Plaint copy in C.S.No.638 of 2016 filed by SRM Transports India Pvt. Ltd., Rept by its Managing Director Mr.P.Ravi Pachamoothoo                     |
| Ext.P24 | 07.09.2016 | Order copy in O.A.No.773 of 2016 in C.S.No.638 of 2016                                                                                              |

|                                |            |                                                                                                                                                                                                                                                                                                   |
|--------------------------------|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ext.P25                        | 15.09.2016 | Order copy in Crl.OP.No.16580 of 2016 filed by Mrs.Daisy Rani                                                                                                                                                                                                                                     |
| Ext.P26                        | 27.09.2016 | Certified copy of the letter addressed to the Inspector of Police, CMBT Police Station by the Tahsildar, Aminjikarai Taluk, Chennai-107, as concerning the details regarding S.Nos.40/2 & 40/6                                                                                                    |
| Ext.P27                        | 27.09.2016 | Certified copy of the letter addressed to the Inspector of Police, CMBT Police Station by the Tahsildar, Aminjikarai Taluk, Chennai-107, as concerning the details regarding Block No.64, R.S.Nos.1/18, 1/20, 1/24, 1/25 (Old S.Nos.19/2, 19/10, 196-9, 19/19, 19/20, 19/36 of Koyambedu Village. |
| Ext.P28                        | 28.09.2016 | Order copy in Crl.OP.Nos.20263 & 20264 of 2016 filed by Mr.P.Ravi Pachamoothoo                                                                                                                                                                                                                    |
| Ext.P29                        | 05.10.2016 | Letter addressed to the Special Public Prosecutor by the Tahsildar, Aminjikarai Taluk, Chennai.                                                                                                                                                                                                   |
| Ext.P30                        | 10.12.2009 | Proceedings of the Tahsildar, Egmore-Nungambakkam Taluk                                                                                                                                                                                                                                           |
| Ext.P31                        | 16.10.2016 | Order copy in Crl.MP.No.9806 of 2016 in Crl.OP.No.20264 of 2016                                                                                                                                                                                                                                   |
| Ext.P32                        | 04.11.2016 | Decree in CS.No.638 of 2016                                                                                                                                                                                                                                                                       |
| Ext.P33                        | 04.11.2016 | Judgment in C.S.No.638 of 2016                                                                                                                                                                                                                                                                    |
| Ext.P34                        | 02.08.2016 | Petition filed by Mr.P.Ravi Pachamoothoo in Crl.OP.No.20263 of 2016 seeking Anticipatory Bail                                                                                                                                                                                                     |
| Ext.P35                        | 12.09.2016 | Common objection filed by the Inspector of Police, K-11, CMBT Koyambedu Police Station, Chennai City in Crl.OP.Nos.20263 & 20264 of 2016                                                                                                                                                          |
| Ext.P36                        | 28.09.2016 | Common objection filed by the Inspector of Police, K-11, CMBT Koyambedu Police Station, Chennai City in Crl.OP.Nos.20263 & 20264 of 2016                                                                                                                                                          |
| Ext.P37                        | 28.09.2016 | Additional Typed Set-I filed by the Inspector K-11 Police Station in Crl.OP.Nos.20263 & 20264 of 2016 enclosing the Map of Block No.64                                                                                                                                                            |
| Ext.P38                        | 27.06.1986 | Original patta of S.No.19/12                                                                                                                                                                                                                                                                      |
| <b><i>Defendants : Nil</i></b> |            |                                                                                                                                                                                                                                                                                                   |

## II. C.S.No.433 of 2017

### I. Witnesses :

|                            |                   |
|----------------------------|-------------------|
| <b><i>Plaintiffs :</i></b> |                   |
| PW1                        | C.Sudhaheer Reddy |

### II. Exhibits :

|         |            |                                                                                                                                                                                                    |
|---------|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ext.P1  | 24.12.2008 | Sale Deed executed by Mrs.C.Pramila in favour of Sudhaheer Reddy (plaintiff in CS.No.433 of 2011)                                                                                                  |
| Ext.P2  | 26.03.2009 | Copy of the plaint in O.S.No.2201 of 2009                                                                                                                                                          |
| Ext.P3  | -          | Copy of the plaint in O.S.No.3856 of 2009                                                                                                                                                          |
| Ext.P4  | -          | Copy of the plaint in C.S.No.446 of 2009                                                                                                                                                           |
| Ext.P5  | -          | Copy of the plaint in O.S.No.4031 of 2009                                                                                                                                                          |
| Ext.P6  | 31.03.1997 | Sale Deed executed in favour of P.VijayaKumari, 1 <sup>st</sup> defendant in C.S.No.431 of 2011 & Tr.C.S.No.511 of 2013 by Pandurangan (plaintiff in CS.446 of 2009 as POA of Smt.Perun Devi Ammal |
| Ext.P7  | 31.12.1985 | Sale deed executed in favour of Mrs.Bolla Aruna Kumari & Mr.Kari Vijaya Sarathi, the plaintiffs in C.S.No.431 of 2011 & Tr.C.S.No.511 of 2013 by their vendors                                     |
| Ext.P8  | 16.09.1985 | Sale Deed executed in favour of Mrs.C.Premela by her vendors                                                                                                                                       |
| Ext.P9  | 24.12.2008 | Sale Deed executed by Mrs.C.Pramila in favour of Sudhaheer Reddy (plaintiff in CS.No.433 of 2011)                                                                                                  |
| Ext.P10 | 30.06.2009 | Applications in A.Nos.3713 to 3715 of 2009 in Tr.C.S.No.670/2009 filed by C.Sudhaheer Reddy                                                                                                        |
| Ext.P11 | 06.02.2009 | Letter by the Assistant Director, District Land Survey & Records Department to Mrs.C.Premela                                                                                                       |
| Ext.P12 | 23.02.2009 | Reply by Assistant Director, Office of the District Land Survey & Records Department in response to RTI information sought by Daisy Rani                                                           |
| Ext.P13 | 23.03.2009 | Letter to the Special Commissioner, Land Administration, Chennai by Mrs.C.Premela                                                                                                                  |
| Ext.P14 | 01.4.2009  | Letter to the Assistant Director, Survey & Land Records, Chennai by Mrs.C.Premela with postal receipt & acknowledgement                                                                            |

|         |            |                                                                                                                                                     |
|---------|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| Ext.P15 | 01.4.2009  | Letter to the District Collector of Chennai by Mrs.C.Premela with postal receipt & acknowledgment                                                   |
| Ext.P16 | 17.4.2009  | Letter from Asst. Director-PA to Collecot, District Land Survey & Records Department, Chennai-1, addressed to General Manager, CMWSSB               |
| Ext.P17 | 15.5.2009  | Letter addressed to the Deputy Commissioner, Chennai by Sudhaheer Reddy                                                                             |
| Ext.P18 | 15.7.2009  | Letter addressed to Mrs.C.Premela by the Tahsildar & Executive Magistrate, Egmore-Nungambakkam Taluk.                                               |
| Ext.P19 | 11.8.2009  | Letter addressed to the Deputy Commissioner, Chennai by Sudhaheer Reddy                                                                             |
| Ext.P20 | 19.8.2009  | Copy of the two separate letters sent by Mr.C.Sudhaheer Reddy to the Commissioner of Police & Deputy Commissioner of Police                         |
| Ext.P21 | 03.6.2009  | Letter sent by Mr.C.Sudhaheer Reddy (plaintiff) to the Commissioner of Police with postal receipt & acknowledgement.                                |
| Ext.P22 | 03.6.2009  | Letter sent by Mr.C.Sudhaheer Reddy (plaintiff) to the Hon'ble Chief Minister with postal receipt & acknowledgement.                                |
| Ext.P23 | 11.6.2009  | Letter sent by Mr.C.Sudhaheer Reddy (plaintiff) to the Commissioner of Police with postal receipt & acknowledgement.                                |
| Ext.P24 | 10.07.2009 | Acknowledgment issued by Koyambedu Police Station registering the complaint given by Sudhaheer Reddy (plaintiff) against Pandurangan                |
| Ext.P25 | 15.7.2009  | Letter addressed to Sudhaheer Reddy (plaintiff) by the Tahsildar & Executive Magistrate, Egmore-Nungambakkam Taluk.                                 |
| Ext.P26 | 12.08.2009 | Letter addressed to the Tahsildar, Egmore-Nungambakkam Taluk Office by Pandurangan expressing his objection in issuing patta to Sudhaheer Reddy     |
| Ext.P27 | 27.11.2009 | Letter addressed to the Special Commissioner Land Administration, Ezhilagam, Chennai-5 by Pramila & 10 others regarding rectification in the patta. |
| Ext.P28 | 01.12.2009 | Reminder to the letter dated 27.11.2009, given by                                                                                                   |

|         |            |                                                                                                                                                                                                                                                                                                   |
|---------|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|         |            | Premela                                                                                                                                                                                                                                                                                           |
| Ext.P29 | 03.02.2014 | Letter to the Principal Secretary and Commissioner of Land Administration by the District Collector                                                                                                                                                                                               |
| Ext.P30 | 03.3.2016  | Proceedings of the District Collector, Chennai in J1/52532/2015                                                                                                                                                                                                                                   |
| Ext.P31 | 02.08.2016 | Petition filed by Mr.P.Ravi Pachamoothoo in CrI.OP.No.20264 of 2016 before this Court seeking Anticipatory Bail.                                                                                                                                                                                  |
| Ext.P32 | 05.09.2016 | Plaint copy in C.S.No.638 of 2016 filed by SRM Transports India Pvt. Ltd., Rept by its Managing Director Mr.P.Ravi Pachamoothoo                                                                                                                                                                   |
| Ext.P33 | 07.09.2016 | Order copy in O.A.No.773 of 2016 in C.S.No.638 of 2016                                                                                                                                                                                                                                            |
| Ext.P34 | 25.6.2014  | Encumbrance Certificate as regards property in S.NO.19/2, 19/2B & 19/2A, 19/2C of Koyambedu Village                                                                                                                                                                                               |
| Ext.P35 | 15.09.2016 | Order copy in CrI.OP.No.16580 of 2016 filed by Mrs.Daisy Rani                                                                                                                                                                                                                                     |
| Ext.P36 | 27.09.2016 | Letter addressed to the Tahsildar, Aminjikarai Taluk by the Sub Registrar, Office of Registrar, Anna Nagar, Chennai.                                                                                                                                                                              |
| Ext.P37 | 27.09.2016 | Certified copy of the letter addressed to the Inspector of Police, CMBT Police Station by the Tahsildar, Aminjikarai Taluk, Chennai-107, as concerning the details regarding S.Nos.40/2 & 40/6                                                                                                    |
| Ext.P38 | 27.09.2016 | Certified copy of the letter addressed to the Inspector of Police, CMBT Police Station by the Tahsildar, Aminjikarai Taluk, Chennai-107, as concerning the details regarding Block No.64, R.S.Nos.1/18, 1/20, 1/24, 1/25 (Old S.Nos.19/2, 19/10, 196-9, 19/19, 19/20, 19/36 of Koyambedu Village. |
| Ext.P39 | 28.09.2016 | Order copy in CrI.OP.Nos.20263 & 20264 of 2016 filed by Mr.P.Ravi Pachamoothoo                                                                                                                                                                                                                    |
| Ext.P40 | 05.10.2016 | Letter addressed to the Special Public Prosecutor by the Tahsildar, Aminjikarai Taluk, Chennai.                                                                                                                                                                                                   |
| Ext.P41 | 10.12.2009 | Proceedings of the Tahsildar, Egmore-Nungambakkam Taluk                                                                                                                                                                                                                                           |
| Ext.P42 | 16.10.2016 | Order copy in CrI.MP.No.9806 of 2016 in CrI.OP.No.20264 of 2016                                                                                                                                                                                                                                   |

|         |            |                                                                                                                                          |
|---------|------------|------------------------------------------------------------------------------------------------------------------------------------------|
| Ext.P43 | 13.10.2016 | Letter sent to the Land Revenue Department by Sudhaheer Reddy for transfer of patta                                                      |
| Ext.P44 | 13.10.2016 | Letter sent to the Principal Secretary, Commissioner of Land Administration by Sudhaheer Reddy for transfer of patta                     |
| Ext.P45 | 13.10.2016 | Letter sent to the Asst. Director of Land Survey & Records by Sudhaheer Reddy for transfer of patta                                      |
| Ext.P46 | 13.10.2016 | Letter sent to the Additional Chief Secretary, Commissioner of Land Administration by Sudhaheer Reddy for transfer of patta              |
| Ext.P47 | 13.10.2016 | Letter sent to the State Settlement Officer, Director of Survey and Settlement Department by Sudhaheer Reddy for transfer of patta       |
| Ext.P48 | 13.10.2016 | Letter sent to the District Collector, Chennai, by Sudhaheer Reddy for transfer of patta                                                 |
| Ext.P49 | 13.10.2016 | Letter sent to the Tahsildar, Aminjikarai Taluk by Sudhaheer Reddy for transfer of patta                                                 |
| Ext.P50 | 04.11.2016 | Decree in CS.No.638 of 2016                                                                                                              |
| Ext.P51 | 04.11.2016 | Judgment in C.S.No.638 of 2016                                                                                                           |
| Ext.P52 | 11.11.2016 | Letter from the District Revenue Officer to the District Revenue Officer (Stamps)                                                        |
| Ext.P53 | 16.07.2009 | Complaint given by Sudhaheer Reddy (plaintiff) to the Commissioner of Police                                                             |
| Ext.P54 | 25.09.2013 | Special Power of Attorney executed by Mrs.T.Indirani and others in favour of Mr.K.Mohanasundaram                                         |
| Ext.P55 | 20.11.2015 | Encumbrance Certificate for the period 01.01.2000 to 18.11.2005                                                                          |
| Ext.P56 | 02.08.2016 | Petition filed by Mr.P.Ravi Pachamoothoo in CrI.OP.No.20263 of 2016 seeking Anticipatory Bail                                            |
| Ext.P57 | 12.09.2016 | Common objection filed by the Inspector of Police, K-11, CMBT Koyambedu Police Station, Chennai City in CrI.OP.Nos.20263 & 20264 of 2016 |
| Ext.P58 | 28.09.2016 | Common objection filed by the Inspector of Police, K-11, CMBT Koyambedu Police Station, Chennai City in CrI.OP.Nos.20263 & 20264 of 2016 |
| Ext.P59 | 28.09.2016 | Additional Typed Set-I filed by the Inspector K-11 Police Station in CrI.OP.Nos.20263 & 20264 of 2016                                    |

|                                |            |                                                                                                                |
|--------------------------------|------------|----------------------------------------------------------------------------------------------------------------|
|                                |            | enclosing the Map of Block No.64                                                                               |
| Ext.P60                        | 16.09.1985 | Sale Deed executed in favour of Mrs.C.Premela by her vendors                                                   |
| Ext.P61                        | 27.6.1986  | Original patta of S.No.19/11                                                                                   |
| Ext.P62                        | 18.03.2009 | Acknowledgment issued by Koyambedu Police Station registering the complaint given by C.Premela (copy enclosed) |
| Ext.P63                        | 06.04.2009 | Copy of the complaint given by C.Premela to the Commissioner of Police (L&O), Egmore, Chennai                  |
| Ext.P64                        | 20.07.2006 | Encumbrance Certificate as regards the property in S.Nos.19/2, 19/2A, 19/2C, 19/2B, 19/2                       |
| <b><i>Defendants : Nil</i></b> |            |                                                                                                                |

Sd./-N.S.S.J.,  
23.12.2021

//Certified to be true copy//

Dated at Madras this the        day of        2022.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.