



PRAYER: Second Appeal filed under Section 100 of Civil Procedure Code against the decree and judgment dated 27.03.2014 passed in A.S.No.24/2006 by the learned Subordinate Judge, Poonamallee, thereby reversing the decree and judgment dated 30.01.2006 passed in O.S.No.690 of 1982 by the learned District Munsif, Poonamallee.

For Appellants :Mr.David Tyagaraj

For Respondents :Mr.Om Prakash
Senior Counsel
for Mr.S.Siva Shanmugam

SA NO.1172 / 2014

1.Dheenadayalan
2.Narayanan
3.Dillibabu
4.G.Babu (Died)
5.G.Sekar
6.G.Lalli @ Lalitha
G.Shanthi (deceased)
7.S.Jamuna
8.R.Yamuna
9.R.Gopinath

...

Appellants/Appellants/

Defendants 5 to 7 and 11, 12, 14 and 15

(Appellants 8 & 9 brought on record as LRs'
of the deceased 4th appellant viz., G.Babu
vide order of Court dated 27.01.2020 made
in CMP Nos.59 to 61 / 2020 in SA No.1172/2014)

Vs.

1.T.K.Boopathi ...1st Respondent/1st Respondent/1st Plaintiffs
2.Rukmaniammal ...Respondents 2 and 3/Respondents 2 & 3/
Defendants 9 and 10
3.Saraswathiammal
Lakshmikanthammal (deceased)
Andalammal (deceased)
G.Meera (deceased)
S.Kothandaraman (deceased) ... Respondents

PRAYER: Second Appeal filed under Section 100 of Civil Procedure Code against the decree and judgment dated 27.03.2014 passed in A.S.No.1/2009 by the learned Subordinate Judge, Poonamallee,



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thereby reversing the decree and judgment dated 30.01.2006 passed in O.S.No.690 of 1982 by the learned District Munsif, Poonamallee.

For Appellants :Mr.David Tyagaraj

For Respondents :Mr.Om Prakash
Senior Counsel
for Mr.S.Siva Shanmugam

COMMON JUDGMENT

Aggrieved over the reversal of the decree and judgment of the Trial Court, the defendants have preferred the above Second Appeals.

2.For the sake of convenience, the parties are called as per their rank before the Trial Court.

3.The plaintiffs filed a Suit for delivery of possession, arrears of rent and for permanent injunction.

4.The plaintiffs are the absolute owners of the Suit property. Originally, the Suit property was owned by one Bandi Srinivasa Mudaliar and he was also managing a Trust called "Nachichatram Trust". The said Trust is a private Trust providing food and water to the devotees coming along with Tirupathi Umbrella. The Trust also ceased to exist. Ryotwari patta was issued in favour of the first plaintiff, after the abolition of minor Inams. The plaintiffs continued to be legal owners who are the wife and son of Late Bandi Kanniappa Mudaliar, who is the son of the original owner Bandi Srinivasa Mudaliar. In the village records, even though the Trust ceased to exist, as there was no Chathiram, the plaintiffs are doing water services and feeding the poor pilgrims on Tirupathi Umbrella day. In village records, S.No.136 was originally described as Grama Natham, which was in the exclusive possession of the said Bandi Srinivasa Mudaliar and Bandi Kanniappa Mudaliar. They have leased out portions of the property to various parties and were collecting ground rent. Subsequently, S.No.136 was divided into S.Nos.136/1 and 136/2. Survey No.136/2 was allotted for forming a road and compensation was also granted by the Government in favour of Bandi Kanniappa Mudaliar. Out of the entire extent in S.No.136/1, i.e., 1.80 acres, the plaintiffs predecessors in title have already sold nearly 80 cents of land and balance of only one acre of land was in possession of the defendants as tenants of the plaintiffs. The property was leased out to one Venu Naidu, who is the father of



the defendants.

5. Since Venu Naidu failed and neglected to pay the ground rent, the said Bandi Kanniappa Mudaliar filed a Suit for recovery of possession of "A" Schedule property and it was decreed. The defendant Venu Naidu was directed to deliver vacant possession of "A" Schedule property and to pay damages and cost. But however, Venu Naidu was allowed to be in possession of the "A" Schedule property on the execution of a note on 07.07.1938. On the death of Venu Naidu, his sons, the defendants, continued to be in possession of the "A" Schedule property in S.No.136/1. However, the defendants maneuver to get "B" Memo in respect of the Suit "A" Schedule property from the Revenue Department, suppressed the fact that they are only tenants and thereby denied the title of the plaintiffs. Hence, the plaintiffs caused a legal notice on 12.03.1982 demanding the defendants to deliver vacant possession of the "B" Schedule property. Since the defendants have failed and neglected to pay the ground rent for the past few years and attempted to trespass into the "B" Schedule property and reap the tamarind fruits from the trees, the Suit for ejecting the defendants from plaintiff "A" Schedule property and permanent injunction restraining the defendants from trespassing into the "B" Schedule property was filed taking the cause of action from 07.07.1938.

6. In the written statement, the defendants denied the title of the plaintiffs. According to them, Ryotwari patta was issued in the name of the plaintiffs as Trustees of Nachichatram Trust and not on their individual capacity. The plaintiffs are not legal owners. The property was divided as S.No.136/1 and S.No.136/2. The said Bandi Kanniappa Mudaliar was not at all in the picture. The Government after taking over a portion of the land for forming of the road, the remaining portion was taken over and recorded the same as poramboke land in the village records. Thus, the property vested with the State. There was a compromise entered into in the decree in O.S.No.429/1935 without prejudice to the rights of the parties to the Suit. The defendants were unaffected by the payment of rent, for this, the Government of Tamil Nadu issued "B" Memos and the defendants have attorned the Government of Tamil Nadu as land owners in view of the notices issued by the Government under Act III of 1905 and 1950. The relationship between the plaintiffs and the defendants is not one of landlord and tenant and the defendants are continuing on their individual rights.

7. Originally, the land was in occupation of one Kothandaraman Naidu and now owned by the defendants. The property



owned by Venu Naidu was enjoyed by him and after his demise 20 years ago, the defendants are in possession. The description of the property is also not correct. The property in possession of the defendants is much larger in extent than what is described in the Suit schedule. The linear measurements are also not correct and after issuance of "B" Memos by the Government, the defendants are enjoying the properties independently as its owner and therefore, the present Suit is hopelessly barred by limitation. By their enjoyment for more than in the statutory period, they are entitled to adverse possession. The defendants are not claiming any right over the "B" Schedule property. It is for the Government to take steps to resume the property.

8.The Trial Court framed appropriate issues and has found that the plaintiffs are not owners of the Suit property and the possession over "A" Schedule property is proved by the by the defendants. Therefore, the plaintiffs are not entitled to delivery of possession and recovery of arrears of rent. In so far as "B" Schedule property is concerned, since the defendants do not claim any right over the same, injunction was granted in favour of the plaintiff. Thus, the Suit was partly dismissed and partly decreed.

9.The plaintiffs preferred an appeal against the dismissal of the relief in A.S.No.1 of 2009 and the defendants preferred an appeal against the injunction granted in respect of "B" Schedule property in A.S.No.24 of 2006. The First Appellate Court after hearing the appeals, has allowed the appeal preferred by the plaintiffs and decreed the Suit in full and dismissed the appeal preferred by the defendants. Aggrieved over the same, the defendants preferred the above two Second Appeals.

10.Both the Second Appeals were admitted on 03.12.2014 on the following substantial questions of law:

"(a) Whether the present Suit in O.S.No.690 of 1982 is hit by filing of the second suit, namely O.S.No.1652 of 1989 by the plaintiff?

(b) Whether the Suit is barred by Article 67 of the Limitation Act? "

11.According to the learned counsel for the appellants, the plaintiffs themselves admits categorically that the property was owned by the Trust. Thereafter, it is averred



that Ryotwari patta was issued after introduction of Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963. Thereafter, the defendants have obtained "B" Memos from the Government and were enjoying the properties continuously for more than four decades. The property which was originally claimed as a Trust property was treated as an individual property by the plaintiffs on the pretext that it is a private property. It is also averred in the plaint that the Trust was providing food and water to the pilgrims on Tirupathi Umbrella day. In that event, it shall be construed as a Public Trust and that the properties of a Public Trust cannot be treated as an individual property.

12. Admittedly, the property was taken over by the Government by the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 [Act XXVI of 1948]. In the year 1959, "B" Memos were issued in the name of the defendants. Eversince they were in possession and enjoyment. This factum was declared by the District Munsif Court, Poonamallee, in O.S.No.263 of 1966, in a Suit between the very same parties. Therefore, the properties shall be construed as an independent property of the defendants and that the finding of the First Appellate Court that once a tenant is always a tenant is absolutely erroneous and not sustainable in law. In O.S.No.263 of 1966, the Trial Court has categorically declared that the property belongs to Nachichatram Trust and the plaintiffs themselves do not have title to deal with the property. Therefore, the lease and sale made in favour of one Varadarajulu Naidu, the plaintiff in that Suit, itself is void and that the plaintiffs are not entitled to any relief. While upholding so, the possession of the defendants were affirmed in that and injunction was granted in favour of the defendants.

13. In O.S.No.1652 of 1989 before the District Munsif Court, Poonamallee also, the possession of the defendants was confirmed. Therefore, the finding of the First Appellate Court that the plaintiffs are the title holders is absolutely against law and well settled principles of law and contrary to the declaration of the competent Civil Court, which has become final.

14. Per contra, the learned counsel appearing for the respondents would contend that originally the defendants' father has entered into a lease agreement and was paying the rentals, which was proved by Exs.A1 to A9. In O.S.No.429 of 1935, the Trial Court decreed delivery of possession against the defendants' father and on a note executed by him on 07.07.1938, he was allowed to continue as a tenant and he was paying rentals



to the Trust. Therefore, the tenancy which was decreed by the Court continues till date. A tenant cannot turn around and deny the title of the land owner. The First Appellate Court has rightly found that the tenant is always a tenant. In support of his contention, he would rely on the following judgments:

(i) Judgment of the Hon'ble Supreme Court in PEDDINTI VENKATA MURALI RANGANATHA DESIKA IYENGAR VS. GOVERNMENT OF A.P. AND ANOTHER [1996 (3) SCC 75]

(ii) Judgment of this Court in D.SREENIVASA MUDALIAR CHARITY VS. DHANASEKARAN [2001 (3) CTC 520]

(iii) Division Bench judgment of this Court in DHARMAPURA ADHINAM MUTT VS. RAGHAVAN AND ANOTHER [2012 (1) CTC 280]

15.The learned counsel for the respondents would further contend that the Grama Natham land will not vest with the Government. Therefore, the right of the plaintiffs over Grama Natham land cannot be affected by issuing "B" Memos in favour of the defendants.

16.I have heard the submissions of both sides.

17.The Division Bench of this Court in DHARMAPURA ADHINAM MUTT VS. RAGHAVAN AND ANOTHER [2012 (1) CTC 280] relied on by the learned counsel for the respondents categorically held that patta issued under Land Encroachment Act or under UDR Scheme cannot prevail over the right of the land owners in respect of Grama Natham lands. Once it is admitted that the defendants are tenants and the Government records shows the land as a Grama Natham land, it cannot be interfered with and the issuance of patta will not confer any right on the defendants. Therefore, the decree and judgment of the First Appellate Court is based on sound and reasonable legal principles and therefore, it shall not be interfered.

18.Further, the above case was a clear case of admission of tenancy, which was followed by a decree also. The landlord and tenant relationship cannot be upset by the grant of UDR patta, in respect of Grama Natham land. It is well settled principle that the Government cannot issue patta in respect of the Grama Natham land and that issuance of UDR patta will not take away the right of the land holder.



19. In the present case, at the outset, the plaintiffs have not proved their title. The property originally belonged to a Trust. The Trust does not extinguish but for the situations specified under Section 77 of the Indian Trusts Act. At any cost, the Trust property cannot be converted as a private property on destruction of the building of the Trust. Secondly, from 1959, the land was taken over by the Government under Act XXVI of 1948, the plaintiff's predecessor must have obtained a Ryotwari patta, which, admittedly was not obtained. If the land was taken over and classified as Grama Natham, the plaintiff should prove their possession on the date of notification. As admitted in the pleadings of the plaintiff, it was leased out to 31 tenants and they were in possession and by suppressing the fact, the tenants have obtained "B" Memos in the year 1959 from the Revenue Officials. As such, the defendants and other tenants have proved their possession as first occupants of a Grama Natham land and their possession was confirmed by a judicial declaration and the defendants were held to be the first occupants. Therefore, the judgment in Dharmapura Adhinam's case (cited supra) relied on by the learned counsel for the respondents will not apply to the case on hand.

20. In so far as the judgment of this Court in D. SREENIVASA MUDALIAR CHARITY VS. DHANASEKARAN AND OTHERS [2001 (3) CTC 520] is concerned, it does not deal with the property in Grama Natham or interference of the same under Act XXVI of 1948. Therefore, this judgment will not be applicable.

21. The judgment relied on by the learned counsel for the respondents in PEDDINTI VENKATA MURALI RANGANATHA DESIKA IYENGAR AND OTHERS VS. GOVERNMENT OF A.P. AND ANOTHER [1996 (3) SCC 75] is on the ratio that the pre-existing relationship, in relation to the land stood terminated and direct relationship with the Government was created by imposition of Ryotwari assessment. This ratio fully supports that case of the defendants. Therefore, this judgment cannot be applied in favour of the plaintiffs.

22. At the outset, the Suit property is a Trust property as evidenced by the exhibits marked by the plaintiffs. Exs. A1 to A47 invariably go to show that the said Bandi Kanniappa Mudaliar, father of the plaintiffs had acted as a Managing Trustee of Nachichatram Trust. Admittedly, the Trust was providing water and food to the pilgrims on Tirupathi Umbrella Day. It is also well settled that once the beneficiaries of the Trust are public at large, then it shall be construed as a Public Charitable Trust. In the instant case, the plaintiffs do not



claim that the benefits were given only to the family members of the Trustee, but it was given to the pilgrims on the Tirupathi Umbrella day. On that point, it can be easily inferred that the properties belonged to a Public Charitable Trust and the Trust cannot extinguish when the object is not completely fulfilled. Even today, Tirupathi Umbrella is taken by the pilgrims and therefore, the objects of the Trust shall be deemed to be continuing.

23. Exs.A18 to Exs.A47 are the payments made by Bandi Kanniappa Mudaliar as a Trustee for Chathiram Manyam from the year 1948 to 1958. Ex.A44 - lease deed executed in favour of one Kothandaraman Naidu as a Trustee of Nachichatram Trust. Exs.A45 to A47 are the Sale Deeds executed by the plaintiffs predecessors for the purpose of repairing the Chathiram in the year 1958-1959. Therefore, all these documents go to show that Chathiram was in existence and Charity was carried out till the lifetime of the said Bandi Kanniappa Mudaliar. After the demise of Bandi Kanniappa Mudaliar, his wife Pachaiammal abruptly claimed it as a private property, which, in law is not acceptable. As discussed above, the nature of the Trust cannot be changed at the will of the vested interests and a Trust cannot be said ceased to exist when the object of the Trust continue to exist.

24. Ex.B1 is the judgment passed in O.S.No.263 of 1966 dated 23.03.1979. The Suit was filed by one Varadarajulu Naidu, the purchaser of the Suit property from plaintiffs for declaration of title and injunction. An alternative prayer of delivery of possession was also made. After remand of the judgment, it was revised and the revised judgment categorically declared that the plaintiffs herein do not have title to convey the property to the said Varadharajulu Naidu, who filed the Suit. It is also categorically declared that the Suit property is a Trust property belonging to Nachichatram Trust. No further appeal was filed and the judgment has become final. Suppressing the fact, the plaintiffs filed the present Suit that the Suit properties are absolute properties of them is not sustainable in law.

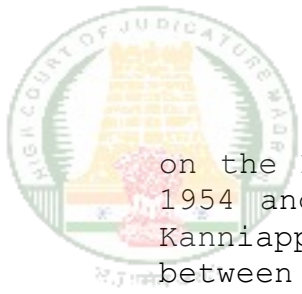
25.It is contended by the appellants that in the year 1959, they were issued "B" Memos. The District Munsif Court, Poonamallee, in O.S.No.263 of 1966 had also given a finding that the second plaintiff Pachaiammal deposed in C.C.No.2571 of 1966 that the Suit property is a Trust property and no patta was granted in favour of them during the introduction of Act XXVI of 1948 and the property was taken over by the Government. In the



Government records, it was shown as Grama Natham. It was also found by the Court in O.S.No.263 of 1966 that Government is the landlord and the defendants were in possession of the property. It was also admitted by the said Pachaiaammal that "B" Memos were issued in favour of the defendants and that "B" Memos were produced before the Court. From this, it was inferred that from the year 1959 onwards, the defendants were in possession on their own right and were paying rental payments to the Government. This factum is admitted and the said finding holds good till date.

26.It is well settled that Grama Natham lands will not vest with the Government. The first occupier of the land shall be considered as the occupant and he is entitled to the title. It cannot be divested from him by issuing notices either under Land Encroachment Act or under Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 [Act XXVI of 1948]. Grama Natham is excluded. By their own admission, the plaintiffs would submit that the defendants were in possession from the year 1959. This factum was rightly discussed and found in favour of the defendants by the Trial Court in its judgment in the present Suit. The contention of the plaintiffs that the defendants were in possession from 1979 pursuant to the judgment of the Civil Court in O.S.No.263 of 1966 was negatived as incorrect. On the other hand, the possession of the defendants from the year 1959 has been affirmed. Therefore, once it is admitted that the land is classified as "Grama Natham" and that the possession was with the defendants from the date of classification, it shall be construed that the defendants are the first occupants of the land and they are entitled to deal with the same. The name of the Trust was not found in the records after 1959, though the Trustee continued to pay the Chathiram Manyam upto 1958. Now that from the year 1959 to till date, the defendants are in undisturbed possession of the properties. Therefore, they cannot be declared as tenants of the plaintiffs and that direction could not be issued to pay the rentals to the plaintiffs. As per the above discussions, it is categorically found that the plaintiffs are not the owners of the property as they do not prove that the Trust has extinguished as specified under Section 77 of the Indian Trusts Act, 1882.

27.It is pertinent to note that the very same plaintiffs have filed the Suit in O.S.No.1717 of 1981 before the District Munsif Court, Poonamallee, for declaration of title and for injunction restraining the Government from issuing "B" Memos. In that Suit, the factum of the decree passed in O.S.No.263 of 1966 and the declaration that the property belongs to the Trust made on 23.03.1979 was not mentioned. The plaintiffs have relied



on the Kists paid by them in the decree passed in O.S.No.255 of 1954 and the communication between the District Board and Bandi Kanniappa Mudaliar and also the rental receipts for the period between 1941 and 1955. The events which had happened after 1959, after the Government took over the lands, were all suppressed. Though it was stated that around 31 tenants were in possession of the land, none of them were impleaded as parties. Only the Government was impleaded as party and declaration of title was obtained. The injunction not to issue "B" Memos was also issued on 17.07.1985. But the factum remains that "B" Memos were issued from the year 1959 in favour of the occupants and they continued to reside in the Grama Natham land for four decades was also suppressed. Therefore, the judgment in O.S.No.1717 of 1981 dated 17.07.1985 will not bind on the defendants and in fact, it is per incuriam in view of the declaration given in O.S.No.263 of 1966 dated 23.03.1979.

28.This Court in A.KOMAN VS. T.S.BALASUBRAMANIYAN [2004 (3) CTC 489] has categorically held that estoppel will not apply against a tenant who was forced to pay the rentals under the threat of eviction and thereafter, attorned the Government as landlord. Relevant portion of the said judgment reads as under:

"15. The next contention of the appellant's side is that the government alone could have the right to evict the illegal occupants from the said place and not the plaintiff; that the suit site belonged to Arunajadaswara Swamy Koil, Thirupanandal; that a part of the property is also a government natham; and hence, the temple and the government were necessary parties to the suit. The instant civil action was one for ejectment based on a rent deed Ex.A1. It is pertinent to point out that the defendant has also recognised the ownership of Sundaresam Pillai and has also paid the rent to Sundaresam Pillai and his son, the present plaintiff, and hence, the said contention cannot be countenanced in law.

16. The learned Counsel for the appellant would urge that the trial Court has rightly placed reliance on the decisions reported in AIR 19 87 S.C. 2192 (D.SATYANARAYANA VS. P.JAGADISH) and 1987 (1) MLJ 357 (N.KANNAYIRAM VS. SRI KALLALAGAR DEVASTHANAM) and held that the estoppel under Sec.116 of the Evidence Act could not be applied to the present



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facts of the case; that the trial Court has also found that the plaintiff has no right or title in respect of the item 2 of the properties, and hence, it has got to be upheld. The learned Counsel for the appellant would further submit that the rule of estoppel embodied under Sec.116 of the Evidence Act, cannot be applied to the present facts of the case in view of the threat made by the paramount title holder namely the Government, who have issued Ex.B8 B memo and the payment of penalty by the defendant under Exs.B9 and B10.

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18. In the instant case, as rightly pointed out by the learned Counsel for the appellant, the Government has issued a B memo under Ex.B8, and in pursuance of the same, he has also paid penalty under Exs.B9 and B10. It is true that under Ex.A1 rent deed, the defendant was put in possession in respect of the items 1 and 2. In respect of item No.1, no controversy has been raised. But, in respect of item No.2, it is the specific defence that was raised before the trial Court by way of an additional written statement, that there was a threat by the paramount title holder namely the Government under Ex.B8, and he has also paid the penalty under Exs.B9 and B10.

19. The estoppel contemplated under Sec.116 of the Evidence Act is restricted only to the denial of the title at the commencement of the tenancy, and thus, it would be clear that the tenant was not estopped from contending that the title of the landlord has come to an end. In the instant case, originally the properties what were leased out, were items 1 and 2. Since there is no controversy in respect of item No.1, the order of eviction granted by the first appellate Court has got to be maintained. As regards item No.2, the plaintiff sought for a relief that he was entitled to the item 2 of the property measuring 20 feet east west and 102 feet north south in Survey No.260. However, the defendant is able to show that he was served with B memo under Ex.B8 stating that he is in occupation of the property measuring 0.01.0 hectare in Survey



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No.260. In view of the settled position of law, the plaintiff cannot maintain a suit in respect of the property found under Ex.B8. Therefore, excepting the property what is found under Ex.B8 having an extent of 0.01.0 hectare, there cannot be any impediment for granting the relief in favour of the plaintiff in respect of the second item of property as found under Ex.A1. Hence, the judgment of the first appellate Court granting the decree as regards the second item of property in entirety is modified as follows:-

(a) The plaintiff is entitled to the recovery of the first item of property.

(b) As far as the second item is concerned, the plaintiff is entitled to the recovery of the second item of property as found under Ex.A1, excepting the measurement found under Ex.B8 namely 0.01.0 hectare in Survey No.260."

29. In the present case also, the defendants who were paying rentals till 1959, have attorned the Government as landlord and paid penal payments to the new landlord. The defendants are the first occupants of the Grama Natham land and they continued as such, over and above the statutory period. Admittedly, the defendants have refused to pay the rentals from the year 1959 and denied the title of the plaintiffs. In para 6 of the plaint, it is categorically averred that the defendants have failed to pay the rentals and thereby denied the title of the plaintiff. Even assuming the Suit property is considered as a private property of the plaintiffs, the defendants are in possession against the interest of the plaintiffs from the year 1959 till the Suit was filed in the year 1982 after long gap of 23 years. By virtue of this long possession adverse to the interest of the plaintiffs, denying the title, the defendants have perfected their title by adverse possession.

30. Admittedly, from 1959, neither the plaintiffs nor their predecessors have filed any Suit for recovery of possession and it was first filed only in 1982. As per Article 67 of the Limitation Act, 1963, the Suit for recovery of possession shall be filed by the landlord within 12 years. Therefore, the Suit is hit by law of limitation and the question of law no.2 is answered in favour of the appellants.



31. In so far as question of law no.1 is concerned, there is a categorical finding by the District Munsif Court, Poonamallee, in O.S.No.1652 of 1989 that the defendants continue to be in possession and the plaintiffs shall not disturb their peaceful possession. The First Appellate Court failed to consider the same.

32. It is well settled that it is for the plaintiffs to prove the title in a Suit for declaration. On the other hand, the First Appellate Court had found fault with the defendants for not producing "B" Memos before the Court. As per the plaintiff averments, it is categorically admitted that "B" Memos were issued in favour of the defendants. Ex.B1 marked on the side of the defendants also proved that one of the plaintiffs namely, Pachaammal admitted that "B" Memos were produced by the plaintiffs in C.C.No.2571 of 1966 and that they were in possession. The District Munsif Court, Poonamallee, in O.S.No.263 of 1966 has also categorically observed that the claim of possession by the defendants is not hit by Section 116 of the Transfer of Property Act, 1882.

33. While so, much of findings were given in favour of the defendants and against the plaintiffs, the findings of the First Appellate Court that once a tenant is always a tenant, without applying its mind to the entitlement of the plaintiffs, is totally erroneous and contrary to the findings of the competent Courts in the previous round of litigation. Therefore, the decree and judgment passed by the First Appellate Court suffers from illegality and erroneous appreciation of evidence.

34. Hence, the judgment and decree dated 27.03.2014 passed by the learned Subordinate Judge, Poonamallee, in A.S.No.24 of 2006 and in A.S.No.1 of 2009 respectively, reversing the decree and judgment dated 30.01.2006 passed in O.S.No.690 of 1982 by the learned District Munsif, Poonamallee, stands set aside and the Suit in O.S.No.690 of 1982 stands dismissed in its entirety.

35. In fine, both the Second Appeals are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(I)

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Sub Assistant Registrar



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1.The Subordinate Judge
Subordinate Court, Poonamallee.

2.The District Munsif
District Munsif Court, Poonamallee.

+1cc to Mr.S.Siva Shanmugam, advocate SR.No.63127

+3cc to Mr.David Tyagaraj, Advocate SR.No.62853

+1cc to Mr.S.Siva Shanmugam, Advocate SR.No.63126 (31/01/2022)

SECOND APPEAL NOS.1171 & 1172 OF 2014

GJ(CO)
CB(12/01/2022)