



A.S.No.981 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 10.03.2023

Pronounced on : 27.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE P.B. BALAJI

A.S.No.981 of 2012

Arulmigu Vedharanyeswaraswami
Devasthanam, Vedharanyam
Represented by its
Executive Officer
Vedharanyam Town
Nagapattinam District.

... Appellant

Vs.

1.Venkatachalam (died)
2.Soundarajan
3.Shanmugam
4.Punithavathi
5.Rajarajan
6.Ramachandran
7.Selvi

... Respondents

*[R1 died, R4 to R7 are brought on record as LRs
of deceased 1st respondent, viz., Venkatachalam,
vide order of Court dated 19.01.2023 made in
C.M.P.No.20545 of 2022 in A.S.No.981 of 2012]*



A.S.No.981 of 2012

Prayer : Appeal Suit filed under Section 96 of Code of Civil Procedure against the judgment and decree dated 23.04.2012 in O.S.No.5 of 2006 on the file of the District Court, Nagapattinam.

For Appellant	:	Mr.S.Kingston Jerold
R1	:	Died
For R2 and R3	:	Mr.D.Babu
For R4 to R7	:	Mr.S.Anbalagan

J U D G M E N T

S.S. SUNDAR, J.

The appeal is directed against the judgment and decree, dated 23.04.2012, in O.S.No.5 of 2006 on the file of the District Court, Nagapattinam. The plaintiff in the suit in O.S.No.5 of 2006, which is a religious institution represented by its Executive Officer, is the appellant in the above appeal.

2.The appellant filed the suit for recovery of possession after removal of existing superstructure by granting a decree for mandatory injunction and



A.S.No.981 of 2012

for a consequential permanent injunction against defendants from making any or continuing further construction in the suit properties.

3.The suit properties are described in 12 items measuring an extent of 13.07 Ares comprised in different Survey Numbers situated in Vadakkattalai Village, Vedaranyam Taluk. It is the case of the appellant that Arulmigu Vedaranyeeswaraswamy Devasthanam is the absolute owner of the entire extent of 13 Acres and 7 Cents, having been given Ryotwari Patta under Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 (Act 30 of 1963) in recognition of the fact that both warams being vested with plaintiff Devasthanam. It is the case of plaintiff/appellant that a sale deed was executed by defendants 2 and 3 on 15.09.1998 in favour of 1st defendant claiming to be the Kudivaramdhar of the property belonging to the Temple and that the validity of the registration of the sale deed is an issue in the suit in O.S.No.601 of 2000 before the District Munsif Court, Nagapattinam. It is further submitted that the representation of the plaintiff to the Sub-Registrar not to register any document in respect of the property of plaintiff is again an issue at the instance of the 1st defendant and a



A.S.No.981 of 2012

complaint before Consumer Forum, Nagapattinam, in COP 58 of 2000 is filed. It is stated that an appeal is pending before the State Consumer Forum as against the direction of District Consumer Forum. Since the 1st defendant claimed independent title and started putting up construction in the suit property in defiance of the plaintiff's title, the plaintiff came forward with the suit for recovery of possession by treating the first defendant as a trespasser. It is stated that the cause of action arose just 10 days before the suit when defendants began to make constructions.

4.The 3rd defendant filed a written statement stating that the suit is not maintainable by Executive Officer on the ground that the plaintiff Temple is under the management of Hereditary Trustee of Varani Adhinam, Yazhpannam. Stating that there is a scheme for management and administration of the plaintiff Temple, by which it is declared that the Hereditary Trustee alone is the proper person to sue and be sued on behalf of the Temple, it is contended that the suit as such is liable to be dismissed. It is further contended that the plaintiff Temple had only a Melvaram interest. In other words, it is stated that the Kudikkani right which is



A.S.No.981 of 2012

otherwise called Ryotwari right is owned by the cultivators namely the ancestors of defendants 2 and 3 who were in possession and enjoyment of the properties for several centuries. It is also stated that the suit property is a Sarvamaniyam land in which the Temple has only Melvaram interest.

5.It is the specific case of the 3rd defendant that defendants 2 and 3 were granted Kudikkani Patta and the Temple itself recognized them as having Kudikkani right and that the Temple was collecting only Melvaram from defendants 2 and 3. However, in the written statement, it is admitted that Ryotwari Patta was granted to the plaintiff under Act 30 of 1963. However, it is stated that the ancestors of defendants were not aware of settlement proceedings and that the Patta granted under Act 30 of 1963 will not confer any title to the plaintiff, as the Settlement Officer failed to consider the Kudivaram right of defendants. It is also stated that grant of Ryotwari Patta under Act 30 of 1963 is not final, as the Civil Court has jurisdiction to decide the question of title irrespective of an order passed by the Settlement Officer under Act 30 of 1963.



A.S.No.981 of 2012

WEB COPY

6. It is further stated by the 3rd defendant that the Kudikkani right in respect of the suit property was originally owned by one Sri Pasupathia Pillai, who is the grandfather of 3rd defendant. After his lifetime, it is stated that sons of Sri Pasupathia Pillai, by name Sri Nagamuthu Pillai and Sri Pichaiyah Pillai entered into a registered partition on 06.11.1947, dividing their Kudikkani right in Vadakkattalai Village and the suit properties in 'B' Schedule were allotted to Nagamuthu Pillai, the father of defendant. It is further stated that, in a subsequent partition between Nagamuthu Pillai and his two sons, namely defendants 2 and 3 on 25.06.1967, the suit properties were allotted to defendants 2 and 3. It is pleaded that plaintiff Temple was collecting only Melvaram Kist from Nagamuthu Pillai and later, from defendants 2 and 3. It is further stated that, though the defendants 2 and 3 are entitled to get Ryotwari Patta under Act 30 of 1963, being owners of Kudivaram interest, it is stated by 3rd defendant that the claim of 3rd defendant who is in possession was not even considered by the Settlement Officer.



A.S.No.981 of 2012

WEB COPY

7.It is contended by defendants 2 and 3 that they are entitled to transfer their whole rights, being the owners of Kudikkani right, and that therefore, they executed sale deed dated 16.09.1998 in favour of 1st defendant as no prior permission is required. The 3rd defendant referred to a previous suit for injunction restraining the Registrar from registering any document of conveyance in O.S.No.242 of 1998 and the admitted fact is that the trial Court granted a decree for injunction restraining the Sub-Registrar from registering any document. Referring to the fact that the sale deed in favour of 1st defendant had already been registered, it is contended by the 3rd defendant that an appeal in A.S.No.44 of 2006 is pending. Stating that the Kudikkani right enjoyed by the defendants 2 and 3 have been properly conveyed in favour of 1st defendant, it is contended by the 3rd defendant that the plaintiff cannot have any objection for the sale deed executed by defendants 2 and 3 in favour of 1st defendant.

8.It is contended by the 3rd defendant that the 1st defendant established an educational institution in the suit property and that the plaintiff is not



A.S.No.981 of 2012

entitled to any relief. Stating that the Temple was collecting Melvaram for the suit property from defendants 2 and 3 till 1997, it is contended by the 3rd defendant that the Temple has recognized the Kudivaram right of defendants 2 and 3 and it is contended that the 1st defendant is not a trespasser and that he is a *bona fide* purchaser for a value from the persons who have right. The 3rd defendant further contended that a suit for possession is not maintainable as defendants 2 and 3 are only cultivating tenants and therefore, they are entitled to protection under Tamil Nadu Public Trusts (Regulation of Administration of Agricultural Lands) Act, 1961 (Act 57 of 1961). Stating that the defendants disputed the title and ownership of the plaintiff over the suit property, it is contended that the suit without a relief of declaration of title, is not maintainable.

9.The 1st defendant also filed a written statement which is in tune with the written statement filed by the 3rd defendant. It is further stated that the suit properties were purchased by Sri Ramachandra Educational Trust, a Society registered under Tamil Nadu Societies Registration Act in which the first defendant is one of the Trustees and the suit is bad for non-joinder of



A.S.No.981 of 2012

necessary parties. It is further contended that the suit properties were handed over to the family of defendants 2 and 3 under a yearly paguthy arrangement and that the first defendant purchased the same from defendants 2 and 3 on 16.09.1998 and hence, six months notice is mandatory under Section 106 of Transfer of Property Act before filing the suit for possession. The first defendant also claimed title by adverse possession. Stating that the plaintiff did not raise any objection at the time of putting up construction, it is further contended that the plaintiff is estopped in law from claiming possession and that if at all the plaintiff can claim compensation. It is pertinent to mention that the first defendant filed an additional written statement questioning the valuation in the plaint. It is stated interestingly that the suit property should be valued at 30 times the kist value as there was no building or structure available at the time of filing of suit. A further plea is raised that the first defendant has arrived at a settlement with the plaintiff and that he has paid all the rental arrears as demanded by the plaintiff.



WEB COPY 10. On the basis of the averments in the plaint and the written

statement, the trial Court framed the following issues :

- i. *“Whether the plaintiff has title to the suit properties ?*
- ii. *Whether the suit properties originally belonged to the defendants 2 and 3 as claimed in the written statement ?*
- iii. *Whether the sale deed dated 16.09.1998 is true, valid and binding on the plaintiff ?*
- iv. *Whether Sri Ramachandra Educational Trust has title to the suit properties ?*
- v. *Whether the suit is bad for non-joinder of necessary parties ?*
- vi. *Whether the suit is barred by time ?*
- vii. *Whether Sri Ramachandra Educational Trust has prescribed title to the suit properties by way of adverse possession ?*
- viii. *Whether the plaintiff is estopped from claiming the relief of mandatory injunction as claimed in the written statement ?*
- ix. *Whether the suit is not maintainable ?*
- x. *Whether the suit is properly valued ?*
- xi. *Whether the court fee paid is correct ?”*

10-A. After hearing arguments, the trial Court reframed/recasted the issues as follows :



- i. *Whether the plaintiff has title to the suit properties ?*
- ii. *Whether the plaintiff is entitled to recovery of possession?*
- iii. *Whether the plaintiff is entitled to permanent injunction ?*
- iv. *Whether the plaintiff is estopped from claiming the relief of mandatory injunction ?*
- v. *Whether the suit is bad for non-joinder of necessary parties ?*
- vi. *Whether the suit is properly valued and whether the Court fee paid is incorrect ?*
- vii. *To what relief ?*

11. Before the trial Court, plaintiff Temple examined P.W.1 to P.W.3 and marked Exs.A1 to A7. On behalf of defendants, 1st defendant was examined as D.W.1 and 2nd defendant was examined as D.W.2. On behalf of defendants, Exs.B1 to B8 were marked. An Advocate Commissioner was appointed, who was examined as C.W.1 and he filed a plan and report marked as Exs.C1 and C2.



A.S.No.981 of 2012

WEB COPY

12. The trial Court, on the question of title, based on the admitted facts in the pleadings and documents, particularly having regard to the fact that defendants did not file any documents in support of their claim, held that the Temple alone has title to the suit properties. On the basis of report of Advocate Commissioner, the trial Court found that the 1st defendant, in the name of Ramachandra Educational Trust, has put up several constructions without permission of the Temple and that the Temple has allowed the 1st defendant to erect construction in the suit properties. Considering several documents which are filed by the defendants, the trial Court found that the Temple has received rent for the suit properties and Executive Officer gave no objection for giving electricity connection for the buildings constructed by the 1st defendant. Since the Government also has granted permission to start new courses to the 1st defendant and there are other proceedings showing the enjoyment of property by 1st defendant, the trial Court found that the plaintiff Temple had acquiesced the act of 1st defendant as a tenant. As a sequence, the trial Court found that the plaintiff is not entitled to recover possession except by due process of law as contemplated under



A.S.No.981 of 2012

Section 80 of Tamil Nadu Hindu Religious and Charitable Endowments Act,

1959 (“HR & CE Act” for brevity). Stating that the Temple has given permission to construct buildings, the trial Court held that, though the Temple has absolute power to evict the tenants at any point of time if there is violation of Rules as contemplated under the Act, the statutory power of Temple to evict tenants cannot be usurped by a Civil Court and therefore, subject to direction to the 1st defendant not to put up any construction in the suit properties without permission of the Temple, the Temple was directed to follow due process of law under Section 80 of HR & CE Act to take possession by following due process of law. Placing reliance on the subsequent documents which are contrary to pleadings, the trial Court observed that the plaintiff has recognised the first defendant's right in the suit properties as a tenant. The trial Court held that the plaintiff is entitled to recovery of possession and that the Temple is not estopped from claiming the relief of mandatory injunction. After deciding other issues also in favour of plaintiff, the trial Court granted a decree restraining the first defendant from putting up any construction without proper permission and held that, as far as relief of recovery of possession and mandatory



A.S.No.981 of 2012

injunction, the Temple authorities have to follow due process of law under Section 80 of HR & CE Act and take possession.

13.Challenging the judgment and decree of the trial Court holding that the plaintiff Temple should approach the Joint Commissioner under Section 80 of HR & CE Act for eviction, the above appeal is preferred by the plaintiff in the suit in O.S.No.5 of 2006.

14.During the pendency of the above appeal, it is reported that the 1st respondent by name Sri Venkatachalam died and respondents 4 to 7 were brought on record as legal representatives of deceased 1st respondent by order dated 19.01.2023.

15.Learned counsel appearing for the appellant/plaintiff submitted that the appellant Temple who is held to be the owner of the suit property cannot be denied the relief prayed for in the suit, particularly on the ground that the defendants are tenants. He pointed out that the defendants before the trial Court seriously disputed the title of Temple and claimed Kudikkani



A.S.No.981 of 2012

right and the 1st defendant claimed ownership over the property on the basis of the sale deeds obtained. Learned counsel also submitted that Section 80 of HR & CE Act has no application in respect of the property of religious institution, as Section 80 of the HR & CE Act is only to protect the artistic appearance or the religious atmosphere of any religious institution and it has nothing to do with the eviction of the property of Temple leased out to tenants. Referring to the arguments of learned counsel for first defendant before the trial Court, the learned counsel appearing for plaintiff/appellant submitted that the trial Court ought to have held that the first defendant who disputed the title should always be regarded as a rank trespasser and ought to have decreed the suit.

16.Learned counsel appearing for the contesting respondents submitted that the suit is barred by virtue of Section 80 of HR & CE Act. Shockingly, the learned counsel did not even argue any other contentious issues that were urged by the defendants before the trial Court. It is pertinent to mention that the defendants have not challenged the findings on all other issues and hence, the findings on the question of title as against



A.S.No.981 of 2012

defendants have become final. Section 80 of the HR & CE Act enables the Joint Commissioner or Deputy Commissioner to terminate the lease or licence and require the lessee or licensee to deliver possession of the property if he decides after an enquiry that artistic appearance or the religious atmosphere of the religious institution has been marred or is likely to be marred by the action of lessee or licensee. Section 108 of the Act alone deals with Bar of suits. Hence, the only issue that falls for consideration in this appeal is whether the suit is barred under Section 108 of HR & CE Act read with Section 80 or any other provisions of the Act.

17.This Court is unable to accept the arguments of the learned counsel for the contesting respondents. Having regard to the findings of the trial Court, the judgment and decree of trial Court directing plaintiff to seek eviction under Section 80 of HR & CE Act is unsustainable. The suit properties are admittedly declared to be Ryotwari lands in respect of which the plaintiff Temple has obtained Ryotwari Patta. The proceedings of Settlement Officer holding the character of land and grant of Ryotwari Patta in favour of the Temple are not in dispute and no further proceedings are



A.S.No.981 of 2012

relied upon challenging the proceedings recognizing the right of Temple to hold Ryotwari Patta. It is admitted in the written statement filed by defendants 2 and 3 in unambiguous terms.

18. Defendants 2 and 3 filed a detailed written statement repudiating the claim of Temple and claiming Kudikkani right (Kudivaram right). The contention of 3rd defendant in the written statement that the issue regarding title can be gone into before the Civil Court despite the decision of Settlement Officer otherwise, is acceptable. However, the defendants have not produced any document to prove their title before the Civil Court in the present suit. Contrary to the stand taken by defendants 2 and 3 in the written statement, it appears that the 1st respondent has taken a stand that the Temple has recognized the 1st respondent as a tenant subsequently and that therefore, the trial Court has held that the Temple may initiate proceedings only under Section 80 of HR & CE Act by due process of law. The contesting respondents, who are the legal heirs of 1st respondent, did not produce any records to show their title. Even the sale deed that was obtained from defendants 2 and 3 is not produced to support the stand taken



by the 1st respondent at the time of trial. The stand taken by the 1st defendant himself in the written statement filed by him is in tune with the stand taken by defendants 2 and 3 in their independent written statement. However, not even a single document is produced before the trial Court to establish the pre-existing right of defendants 2 and 3 or their predecessors in interest, before the grant of Ryotwari Patta in favour of the Temple. Though the Civil Court can go into the issue regarding title irrespective of the verdict given by the Settlement Officer at the time of settlement under Act 30 of 1963, by virtue of the judgment of the Hon'ble Supreme Court in the case of *State of Tamil Nadu v. Ramalinga Samigal Madam* reported in **(1985) 4 SCC 10** and the Full Bench of this Court, the person claiming title has to establish before the Civil Court, the pre-existing right and enjoyment of property as a ryot.

19. Since the defendants failed to produce any document to substantiate their claim of title properly, the defendants developed a case of tenancy after arguments based on subsequent documents without specific plea. In this case, the defendants all along denied the title of plaintiff. Only a residual argument is advanced claiming tenancy to non-suit the plaintiff by



A.S.No.981 of 2012

referring to different statutes. First of all, a person who admits tenancy is not entitled to claim title by virtue of Section 116 of Indian Evidence Act.

Section 116 of Indian Evidence Act reads as follows :

“116. Estoppel of tenant; and of licensee of person in possession.-

No tenant of immovable property, or person claiming through such tenant, shall, during the continuance of the tenancy, be permitted to deny that the landlord of such tenant had, at the beginning of the tenancy, a title to such immovable property; and no person who came upon any immovable property by the licence of the person in possession thereof shall be permitted to deny that such person had a title to such possession at the time when such licence was given.”

20. Section 116 of Evidence Act stipulates that a tenant is estopped from denying title and hence, the plea of adverse possession is contrary to the plea of tenancy. As per Section 111 of Transfer of Property Act, 1882, a lease of immovable property comes to an end by forfeiture. In case, a lessee renounces his character by setting up a title in a third person or by claiming title in himself, he is not entitled to claim tenancy. By applying Section 111 of Transfer of Property Act, the defendants cannot plead tenancy after



A.S.No.981 of 2012

denying the title of Temple. It is in these circumstances, this Court is unable to reconcile the inconsistent stand taken by the defendants in the written statement before the trial Court.

21.The trial Court has granted a decree in the following terms :

“In the result, the suit is decreed as follows :

The 1st defendant is restrained from putting up any construction without proper permission from the authorities under the Tamil Nadu Hindu Religious & Charitable Endowment Act. As far as the relief of recovery of possession and mandatory injunction is concerned, the temple authorities has to follow due process of law u/s.80 of Tamil Nadu Hindu Religious & Charitable Endowment Act and take the possession. However, considering the nature of dispute no cost is ordered.”

22.Section 80 of HR & CE Act reads as follows :

“80. Eviction of lessees, licensees or mortgages with possession in certain cases. - (1) Where the Assistant Commissioner having jurisdiction over the area in which the religious institution is situated is of the view that the lessee, licensee or mortgagee with possession of any land belonging



to the religious institution wherever it is situated or any sacred tank, well, spring or water course, appurtenant to the religious institution whether situated within or outside the precincts thereof, or any space within or outside the prakarams, mantapams, courtyards or corridors of the religious institution, has taken any action which has marred or is likely to mar the artistic appearance or the religious atmosphere of the religious institution, the Assistant Commissioner shall report the fact together with relevant particulars to 1[the Joint Commissioner or the Deputy Commissioner, as the case may be, having jurisdiction over the area in which the religious institution is situated.

(2) The Joint Commissioner or the Deputy Commissioner, as the case may be, if satisfied that the artistic appearance or the religious atmosphere of the religious institution has been marred or is likely to be marred by the action of the lessee, licensee or mortgagee with possession shall cause to be served on the lessee, licensee or mortgagee concerned, a notice calling upon him to show cause before a certain date why an order terminating the lease license or cancelling the mortgagee, and requiring the lessee, licensee or mortgagee, as the case may be, to deliver possession of the property which is the subject of the lease, licence or mortgage to the trustee before a date specified in the notice should not be made. A



A.S.No.981 of 2012

copy of the notice shall also be sent to the trustee of the religious institution concerned.

(3) The notice referred to in sub-section (2) shall be served in such manner as may be prescribed.

(4) After considering the objections, if any, of the lessee, licensee or mortgagee, received within the period specified in the notice referred to in subsection (2), the Joint Commissioner or the Deputy Commissioner, as the case may be, may, if he decides that the artistic appearance or the religious atmosphere of the religious institution has been marred or is likely to be marred by the action of the lessee, licensee or mortgagee by order terminate the lease or license or cancel the mortgage and require the lessee, licensee or mortgagee to deliver possession of the property which is the subject of the lease, licence or mortgage to the trustee before a date specified in the order.

(5) The order of the Joint Commissioner or the Deputy Commissioner, as the case may be, shall be in writing and shall contain the grounds on which he has passed the order.”

23.Since Section 80 of HR & CE Act was intended to protect the



A.S.No.981 of 2012

artistic appearance or the religious atmosphere of the religious institution, the said provision has no application to the present case. However, if a person is in encroachment of any land belonging to any religious institution or endowment, Section 78 of HR & CE Act enables the Assistant Commissioner *suo motu* or upon complaint from the Trustee, to report the encroachment to the Joint Commissioner and the Joint Commissioner, thereafter, is entitled to issue a show cause notice on the encroacher and to remove encroachment, if the encroachment is found true on enquiry. Thereafter, Section 79 enables the Assistant Commissioner to remove the encroachment physically with the Police assistance as may be required. A person aggrieved by an order after a summary enquiry under Sections 78 and 79 of the HR & CE Act can approach the Civil Court to establish that the religious institution or endowment has no title to the property in terms of Section 79(2) of HR & CE Act. Such a suit shall be instituted within a period of six months from the date of receipt of order under Section 78(4) of the Act.

24.From a reading of Sections 78 and 79 of HR & CE Act, this Court



A.S.No.981 of 2012

WEB COURT

has no hesitation to hold that the power under Section 78 available to the Joint Commissioner though absolute, jurisdiction of Civil Court to entertain a suit for ejectment or eviction of tenant or an encroacher is not barred under any of the provisions of the HR & CE Act. Power is available to the Civil Court to entertain a suit to establish that the religious institution has no title to the property even after an order of eviction is passed under Section 78 of the HR & CE Act. Even where eviction proceedings have been initiated under Sections 78 and 79 of the Act, it is always desirable to the religious institution to institute a Civil Suit for ejectment or for recovery of possession either against the tenant or an encroacher, in case the encroacher sets up title in himself or states that the tenancy is not terminated. Therefore, this Court is unable to accept the arguments of learned counsel for the respondents to hold that the suit is not maintainable. Even otherwise, the trial Court proceeded by treating the respondents as tenants, as if the tenancy has been acquiesced by the Temple.



A.S.No.981 of 2012

25.The bar of suit is created only under Section 108 of HR & CE Act.

Section 108 reads as follows :

“108. Bar of suits in respect of administration or management of religious institutions, etc.—

No suit or other legal proceeding in respect of the administration or management of a religious institution or any other matter or dispute for determining or deciding which provision is made in this Act shall be instituted in any Court of Law, except under, and in conformity with, the provisions of this Act.”

26.Section 108 of HR & CE Act deals with suit or legal proceedings in respect of administration or management of a religious institution or dispute determining or deciding an issue in respect of which provision is made under the HR & CE Act. By virtue of Sections 78 and 79 of the Act, particularly Section 79, no person aggrieved by an order of Joint Commissioner under Sub-Section (4) of Section 78 is prevented from instituting a suit in a Court to establish his title as against the religious institution. First of all, a suit for ejectment or eviction against encroacher involves an adjudication of title and hence, such a suit cannot be taken as a



A.S.No.981 of 2012

proceeding or suit in respect of administration or management of a religious institution. Further, it is settled that ouster of Civil Court's jurisdiction cannot be readily inferred. When no machinery is provided under the Act to decide the question of title and the lower Court has held that the plaintiff has established title, the trial Court ought to have granted a decree for recovery of possession and consequential reliefs. The judgment and decree in so far as it is against the plaintiff for recovery of possession and mandatory injunction, is therefore, liable to be set aside, as the plaintiff is entitled to a decree for recovery of possession and mandatory injunction as prayed for. In the suit, the defendants have raised inconsistent stands with a clear intention to grab the Temple lands. The first defendant seems to have purchased the property from defendants 2 and 3 who claimed Kudikani right which is not a term equivalent to Ryotwari right. The Temple is deprived of its legitimate income for a long number of years.



A.S.No.981 of 2012

27.In such circumstances, **this appeal is allowed** with costs and the

judgment and decree of the trial Court, dated 23.04.2012, is modified and the suit in O.S.No.5 of 2006 stands decreed as prayed for.

(S.S.S.R., J.) (P.B.B., J.)
27 .03.2023

mkn

Internet : Yes

Index : Yes / No

To

1.The District Judge,
Nagapattinam.

2.The Section Officer,
VR Section, High Court,
Chennai.

| *with a direction to return*
| *the records to the Court below,*
| *forthwith*



WEB COPY



A.S.No.981 of 2012

S.S. SUNDAR, J.
and
P.B. BALAJI, J.

mkn

Pre-Delivery Judgment in
A.S.No.981 of 2012

27.03.2023