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S.A.Nos.868, 869 & 876 of 2018



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 26.03.2024

Pronounced on: 18.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE P.B.BALAJI

S.A.Nos.868, 869 & 876 of 2018
and C.M.P.No.23370 of 2018

S.A.Nos.868 of 2018:

1.K.A.Prasanna Kumar
2.K.A.Kamala

...Appellants

Vs.

G.K.Mayilvel ...Respondent

Prayer in S.A.No.868 of 2018 : Second Appeal filed under Section 100 of the Code of Civil Procedure, against the judgment and decree dated 28.04.2018 made in A.S. No.68 of 2016 on the file of the First Additional District and Sessions Court, Salem, reversing the judgment and decree dated 30.11.2015 made in O.S. No.281 of 2007 on the file of the Principal Subordinate Court, Salem.

(In S.A.No.868 of 2018)

For Appellants : Mr.C.Jagadish

For Respondent : Mr.T.Murugamanickam
Senior Counsel
for Mrs.Zeenath Begum

S.A.Nos.869 of 2018:

<https://www.mhc.tn.gov.in/judis>



K.A.Prasanna Kumar

...Appellant

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Vs.

G.K.Mayilvel

...Respondent

Prayer in S.A.No.869 of 2018 : Second Appeal filed under Section 100 of the Code of Civil Procedure, against the judgment and decree dated 28.04.2018 made in A.S. No.66 of 2016 on the file of the First Additional District and Sessions Court, Salem, reversing the judgment and decree dated 30.11.2015 made in O.S. No.279 of 2007 on the file of the Principal Subordinate Court, Salem.

(In S.A.No.868 of 2018)

For Appellant : Mr.C.Jagadish

For Respondent : Mr.T.Murugamanickam
Senior Counsel
for Mrs.Zeenath Begum

S.A.No.876 of 2018:

1.K.A.Prasanna Kumar
2.K.A.Kamala
3.D.J.Usha Rani
4.N.Ananth

...Appellants

Vs.

1.G.K.Mayilvel
2.A.Ramalingam
3.Paranthaman
4.Suresh
5.Selvakumar
6.Dr.Iliyas Basha



S.A.Nos.868, 869 & 876 of 2018

7. John Beham
8. Rajendran
9. Anjali Devi
10. Selvi

...Respondents

Prayer in S.A.No.876 of 2018 : Second Appeal filed under Section 100 of the Code of Civil Procedure, against the judgment and decree dated 28.04.2018 made in A.S. No.67 of 2016 on the file of the First Additional District and Sessions Court, Salem, reversing the judgment and decree dated 30.11.2015 made in O.S. No.299 of 2008 on the file of the Principal Subordinate Court, Salem.

(In S.A.No.876 of 2018)

For Appellants : Mr.C.Jagadish

For Respondents

For R1 : Mr.T.Murugamanickam
Senior Counsel
for Mrs.Zeenath Begum

For RR3 to 7
9 & 10 : Not ready in notice

For R8 : No appearance

COMMON JUDGMENT

These three Second Appeals arise out of three suits, two filed by the plaintiffs seeking the relief of declaration and injunction in O.S.Nos.279 & 281 of 2007 and the third suit filed by the defendant in the other two suit suits, namely O.S.Nos.279 & 281 of 2007. By separate



suit in O.S.No.299 of 2008, where declaration and injunction has been sought for in respect of 4 cents out of 11 cents.

2.The parties are described as per their litigative status before the Trial Court.

3.Brief facts which would be necessary to adjudicate the Second Appeals are as hereunder:

The plaintiffs in O.S.Nos.279 & 281 of 2007, stating that the suit property originally belonged to one Dr.K.R.Meenakshi Sundaram Pillai, who had purchased the same on 13.10.1942 and subsequently, sold the said property to the plaintiffs' vendor, M.S.P.Subramaniam Chettiar, under a registered Sale Deed dated 25.07.1979 and also subsequently, in and by a Release Deed dated 01.08.1979, the legal heirs of the said Dr.K.R.Meenakshi Sundaram Pillai released their rights in favour of Mr.M.S.P.Subramaniam Chettiar. The 1st plaintiff in O.S.No.279 of 2007, K.K.Anantharao, purchased one half of the suit property and the plaintiffs in O.S.No.281 of 2007 purchased the other half. The plaintiffs in both the suits are husband and wife. The 2nd plaintiff in both the suits is the son of the 1st plaintiff. Their common case in both the complaints is that pursuant to their purchase on 29.08.1986, they have been in possession and they have



been paying property tax and water tax. Patta was also granted to them and the defendant however, being a total stranger, started disturbing their possession and enjoyment and also attempted to dispossess the plaintiffs. Under those circumstances, the plaintiffs having also lodged a police complaint, instituted the suit to declare their respective title to the portions purchased by them, namely, 4 cents and 11 cents respectively and also for permanent injunction to restrain the defendant from interfering with their peaceful possession and enjoyment of the suit property.

4.The defendant resisted the said suits contending that the plaintiffs were not the owners of the suit property and they have also not been in possession. According to the defendant, one Dr.K.R.Meenakshi Sundaram Pillai, who had purchased the suit property on 30.04.1942, in and by Sale Deed dated 28.11.1942, sold the suit property to one Arunachalam, who is the father of Ariya Gounder, a very close friend of Dr.K.R.Meenakshi Sundaram Pillai. The sale consideration being Rs.90/- , and it did not require registration and the said Arunachalam had purchased 4 cents situate on the western side, out of the total 11 cents.

5.According to the defendant, he has been in lawful possession of



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the suit property and the plaintiffs had no right. Further, according to the defendant, Arunachalam had leased out the property to one Kumaran, son of Govinda Gounder and subsequently, the said Kumaran also vacated the property and subsequently, the property was handed over to the said Arunachalam, who was in possession and enjoyment of the 4 cents in the western side and the remaining 7 cents on the eastern side. The defendant had purchased the 4 cents, comprised in S.No.64 on 12.09.2007 from the power agent of said Arunachalam and thereupon, he became the absolute owner of the suit property to an extent of 4 cents. It is also contended by the defendant that in respect of remaining 7 cents also, the defendant stepped into the shoes of the one Arunachalam, who was in enjoyment of the remaining 7 cents and has perfected title by adverse possession and was the absolute owner of the entire property comprised in S.No.64. According to the defendant, Dr.K.R.Meenakshi Sundaram Pillai died without any legal representatives and the claim of the plaintiffs having purchased from the legal representatives of Dr.K.R.Meenakshi Sundaram Pillai was false and not conveying any valid title to the plaintiffs. With similar claims, the defendant in the suit, filed O.S.No.299 of 2008 seeking declaration of his title to the suit property comprising 4 cents alone which was purchased by him, tracing title to Dr.K.R.Meenakshi Sundaram Pillai and also for a permanent injunction to restrain the



defendants from interfering with his peaceful possession and enjoyment of the suit property.

6.The said suit was resisted by the plaintiffs in the other two suits, namely O.S.Nos.279 & 281 of 2007, on the same set of averments and allegations made in their plaints.

7.All the three suits were tried together before the Trial Court and the suits filed by the plaintiffs in O.S.No.279 & 281 of 2007 came to be decreed and the suit filed by the defendant as plaintiff in O.S.No.299 of 2008 came to be dismissed. Aggrieved by the dismissal of his suit and decree granted against him in the other two suits, the defendant preferred the three appeals in A.S.Nos.66, 67 & 68 of 2016 before the District Judge, Salem. The First Appellate Court reversed the judgment and decree passed by the Trial Court in all the three suits and thereby dismissed O.S.Nos.279 and 281 of 2007 and decreed O.S.No.299 of 2008.

8.It is aggrieved by these reversal findings that the plaintiffs in O.S.Nos.279 & 281 of 2007 and the defendants in O.S.No.299 of 2008 have come up by way of the above Second Appeals.



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9.All the three Second Appeals were admitted by this Court on 21.12.2018, on the following substantial questions of law:

“(1) Whether the lower Appellate Court is right in law in reversing the well considered judgment of the trial Court on the ground that Exhibit A2 and A3 were not executed by the legal heirs of late Dr.Meenakshi Sundaram Pillai particularly when the first respondent has not discharged the onus of proving impersonation under exhibits A2 and A3?

(2) Whether the lower appellate Court is right in law in holding that Ex.B7 unregistered sale deed is a valid document of title in favour of the first respondent's vendor placing reliance on exhibits B8, B9, B10 and B15 which are forged and fabricated documents?

(3) Whether the Lower Appellate Court is correct in law in rendering a finding that Exs.A1 & A26, Sale Deeds are invalid?

(4) Whether the Lower Appellate Court is correct in law in ignoring Exs.A5 to A25 and which shows continuous possession by the appellants thereby giving evidence to their case, more particularly, when the respondent has claimed title by prescription in respect of 7 cents?”



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10.I have heard Mr.C.Jagadish, learned counsel for the appellants in all the Second Appeals and Mr.T.Murugamanickam, learned Senior Counsel for Mrs.Zeenath Begum, learned counsel for the 1st respondent in all the Second Appeals. I have gone through the pleadings, oral and documentary evidence adduced by the parties before the Trial Court as well as the judgment of the Trial Court and the First Appellate Court.

11.(a).Mr.C.Jagadish, learned counsel for the appellants in all the Second Appeals would revolve his submissions around the substantial questions of law and contend that the 1st respondent had claimed title under an unregistered Sale Deed and the Sale Deed itself was written in a clumsy manner and the stamp paper on which the Sale Deed was executed was standing in a different name and not in the name of the 1st respondent. He would also state that the appellants have paid property tax and also effected mutation of records in their names and they traced title under registered documents, whereas the 1st respondent claimed title under an unregistered Sale Deed. Therefore, according to the appellants, the Trial Court had rightly assessed the pleadings and evidence adduced by the parties and decreed the suits filed by the appellants in O.S.Nos.279 & 281 of 2007 and dismissed the suit filed by the 1st respondent in O.S.No.299 of 2008. However, the First Appellate Court has erroneously



over turned the well considered findings of the Trial Court and the learned counsel for the appellants would submit that interference is warranted in the above Second Appeals.

(b).The learned counsel for the appellants would take me through the documentary evidence adduced by the plaintiffs to establish their possession over the suit property and he would also contend that Ex.A2 and Ex.A3, being 30 years and more, presumption ought to be drawn on in favour of its genuineness and even in the said presumption had not been rebutted by the 1st respondent.

(c).The learned counsel for the appellants would place reliance on the decision of this Court in ***Bharathi Ammal Vs. Jayaraman and Others***, reported in ***(2001) 3 M.L.J. 391***, where this Court held that when an agreement is ante-dated and stamp papers were standing in the name of different persons and even the stamp vendor's name was not clearly given on the stamp paper and no evidence was let in as to why the stamp papers were standing in the name of third parties and the absence of stamp vendor not being examined, the said document could not be looked into in evidence.



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12.(a).Per contra, Mr.T.Murugamanickam, learned Senior Counsel for the 1st respondent in all the Second Appeals would contend that even in Ex.A2, under which the plaintiffs have traced their title, antecedent title has not been set out in the Sale Deed and when the 1st respondent had specifically denied the title of the plaintiffs and asserted that Dr.K.R.Meenakshi Sundaram Pillai died leaving behind no legal representatives, the burden was heavily rested on the appellants and they have not let in any evidence whatsoever to establish their entitlement to the suit properties. The learned Senior Counsel would also take me through Ex.B7 which is the unregistered Sale Deed executed by Dr.K.R.Meenakshi Sundaram Pillai in favour of Arunachalam, who has in turn conveyed the property to the 1st respondent, through his duly constituted general Power of Attorney.

(b).The learned Senior Counsel also refer to the schedules to the various documents exhibited on the side of the plaintiffs to show that Plot No.7 which is the subject suit plot was not even mentioned in the schedules to any of the registered documents. He would also contend that pending the suit, the property has been sold to the 12th defendant and the appellants had no subsisting interest in the suit property and there was a



clear bar under the provisions of Specific Relief Act to grant relief of declaration of title when the plaintiffs had no subsisting interest in the suit property.

(c).The learned Senior Counsel would also invite my attention to the Sale Deed in Ex.A1 in favour of the one of the plaintiff where S.No.63 had also been sold, when it did not even belong to Dr.K.R.Meenakshi Sundaram Pillai. However, it is not established as to how the appellants have purchased lands in S.No.63 also along with lands in S.No.64. The learned Senior Counsel would draw my attention to the memorandum of grounds of Second Appeal in S.A.No.876 of 2018, where the purchaser has joined in the filing of the Second Appeal as 4th appellant in respect of the suit in O.S.No.299 of 2008 alone. The learned Senior Counsel would first and foremost contend that when the 4th appellant was the 12th defendant in the suit, without any leave of the Court, he could not have joined the filing of the appeal along with the contesting defendants in the said suit and that apart, he would also contend that when the said purchaser had not preferred an appeal against the other two suits, namely O.S.Nos.279 & 281 of 2007, the Second Appeals could not be entertained as the purchaser has allowed the appeals to become final in so far as the other two suits namely, O.S.No.279 & 281



of 2007 were concerned.

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(d).In this regard, the learned Senior Counsel for the 1st respondent would place reliance on the decision of the Larger Bench of the Hon'ble Supreme Court in *Sri Gangai Vinayagar Temple and Another Vs. Meenakshi Ammal and Others*, reported in (2015) 3 SCC 624. The learned Senior Counsel would therefore pray for dismissal of the three Second Appeals.

13.I have carefully considered the rival submissions advanced by the learned counsel for the appellants and the learned Senior Counsel for the 1st respondent in the above Second Appeals.

14.It is not in dispute that the suit property originally belonged to Dr.K.R.Meenakshi Sundaram Pillai. His title is admitted by both the parties. However, according to the appellants, they had purchased portions of the suit property from the legal representatives of the Dr.K.R.Meenakshi Sundaram Pillai, who was a practicing Doctor. On the other hand, it is the specific case of the 1st respondent that Dr.K.R.Meenakshi Sundaram Pillai was closely acquainted with Arunachalam and his father Ariya Gounder and therefore, the Plot No.7



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measuring 4 cents was conveyed in favour of the said Arunachalam for Rs.90/- and since the sale consideration was less than Rs.100/-, the registration of the Sale Deed was not necessary. The said unregistered Sale Deed is exhibited as Ex.B7 and the 1st respondent claims to have purchased the entire 11 cents under from the said Aruchalam under Ex.B20. The 1st respondent also exhibited Lease Deeds and notices from the Salem Municipality to evidence physical possession of the suit property. The defendants have also exhibited the original Sale Deed under which Dr.K.R.Meenakshi Sundaram Pillai purchased the suit property as Ex.B1. On the other hand, the plaintiffs claim to have purchased the property from the legal representatives of Dr.K.R.Meenakshi Sundaram Pillai under Ex.A1 and A26. On going through Ex.A1 and A26, I do not find any antecedent title being set out in the preamble of the Sale Deeds. Despite the 1st respondent denying the legal status and relationship of the appellants to Dr.K.R.Meenakshi Sundaram Pillai and specifically contending that Dr.K.R.Meenakshi Sundaram Pillai died without any issues/legal representatives, the burden was certainly on the appellants to have established their legal status and relationship to Dr.K.R.Meenakshi Sundaram Pillai.

15.Admittedly, they have not produced any legal heirship



certificate or examined any of their vendors who claimed to be the legal representatives of Dr.K.R.Meenakshi Sundaram Pillai. Further, the plaintiffs have not filed even a single document to show that they were in possession or they held title for the suit property right from 1942 to 1979, when they purchased the suit property under registered Sale Deeds. Moreover, the parent title documents have been produced only by the 1st respondent and not by the appellants.

16.Regarding the unregistered Sale Deed in Ex.B7, I am unable to countenance the arguments of the learned counsel for the appellants. When the 1st respondent has been able to substantiate the purchase under an unregistered Sale Deed by adducing satisfactory evidence to be in physical possession of the subject property in furtherance of the unregistered Sale Deed through his predecessor in title and also statutory authorities having issued notices to the 1st respondent, recognizing the possession of the 1st respondent and the fact that the original Title Deed has been produced only by the 1st respondent, viz., the original Sale Deed under which Dr.K.R.Meenakshi Sundaram Pillai himself purchased the property, I do not see any ground for disbelieving the unregistered Sale Deed.



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17. Admittedly, it is the specific case of the 1st respondent that the purchaser under Ex.B7, unregistered Sale Deed from Dr.K.R.Meenakshi Sundaram Pillai had become a very close acquaintance along with his father, Ariya Gounder and therefore, merely because the property was sold for Rs.90/- would not be a ground to reject the Sale Deed. Admittedly, a Sale Deed for a value of less than Rs.100/- does not require registration and therefore, Ex.B7 is a valid Sale Deed which can be looked into in evidence. The 1st respondent has also exhibited documents right from 1954 onwards till the filing of the suit to evidence physical possession of the suit property. There are absolutely no reasons to doubt the mutation of revenue records in the name of the 1st respondent and also the notices and receipts issued by the Salem Municipal Corporation to the 1st respondent/tenant one Kumaran. On the other hand, the appellants who had filed two suits for declaring their title have not been able to substantiate their entitlement, by first and foremost proving that their vendors were the legal representatives of Dr.K.R.Meenakshi Sundaram Pillai. There is absolutely no evidence on the side of the appellants in this regard.

18. As rightly pointed out by the First Appellate Court, the appellants ought to have at least examined one of their vendors to



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establish their case that their vendors were none else than the legal representatives of the Dr.K.R.Meenakshi Sundaram Pillai. In any event, when Dr.K.R.Meenakshi Sundaram Pillai himself had conveyed his property to Arunachalam way back in the year 1954, even assuming the vendors of the appellants were the legal representatives of Dr.K.R.Meenakshi Sundaram Pillai, they had no subsisting right to deal with the suit property in favour of the plaintiffs. I have also seen that the plaintiffs have not filed any document to establish their possession right from 1949 onwards till about 1996 when they purchased the suit property. The arguments of the learned Senior Counsel that Plot No.7 does not find a place in any of the registered documents, on which claim is made by the appellants cannot also be ignored altogether.

19.It is the specific case that even the vendor of Dr.K.R.Meenakshi Sundaram Pillai had plotted out and sold various portions of the lands to third parties and in such circumstances, the Sale Deeds in favour of the plaintiffs at least ought to have mentioned the Plot No.7, which is admittedly absent. Further, the arguments of the learned Senior Counsel Mr.T.Murugamanickam that admittedly, under Ex.B4, only the legal representatives of the plaintiffs in O.S.Nos.279 & 281 of 2007 had sold the property to the 12th defendant, pending the suit. However, despite



such sale of the entire suit property to the 12th defendant, the appeals have been prosecuted by the legal representatives of the plaintiffs in O.S.No.279 & 281 of 2007. I find force in the submissions of Mr.T.Murugamanickam, learned Senior Counsel when the 12th defendant in O.S.No.299 of 2008 had joined the appellant in S.A.No.876 of 2018 as the 4th appellant, he ought to have challenged the decree in the other two suits, namely O.S.Nos.279 & 281 of 2007 also.

20.Moreover, admittedly, it is not known how the 12th defendant can join the plaintiffs and file S.A.No.876 of 2018, without the leave of the Court. Moreover, when all the three suits had been jointly tried and decided, the following ratio laid down in *Sri Gangai Vinayagar Temple's* case, when the 12th defendant, namely the 4th appellant in S.A.No.876 of 2018 is admittedly the only person having interest in the suit property when the legal representatives of the deceased plaintiff in O.S.Nos.279 & 281 of 2007 had conveyed and already sold the property under Ex.B4, it was absolutely necessary for the purchaser to have obtained leave of this Court and also challenged the judgment and decree in A.S.Nos.66 & 68 of 2016.

21.The Hon'ble Supreme Court, in the above decision, held as



follows:

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27. *Procedural norms, technicalities and processual law evolve after years of empirical experience, and to ignore them or give them short shrift inevitably defeats justice. Where a common judgement has been delivered in cases in which consolidation orders have specifically been passed, we think it irresistible that the filing of a single appeal leads to the entire dispute becoming sub judice once again. Consolidation orders are passed by virtue of the bestowal of inherent powers on the courts by Section 151 CPC, as clarified by this Court in Chitivalasa Jute Mills v. Jaypee Rewa Cement¹³. In the instance of suits in which common issues have been framed and a common trial has been conducted, the losing party must file appeals in respect of all adverse decrees founded even on partially adverse or contrary speaking judgments. While so opining we do not intend to whittle down the principle that the appeals are not expected to be filed against every inconvenient or disagreeable or unpropitious or unfavourable finding or observation contained in a judgement, but that this can be done by way of cross-objections if the occasion arises. The decree not assailed thereupon metamorphoses into the character of a "former suit". If this is not to be so viewed, it would be possible to set at naught a decree passed in Suit A by only challenging the decree in Suit B. Law considers it an anathema to allow a party to achieve a result indirectly when it has deliberately or negligently failed to directly initiate proceedings towards this purpose. Laws of procedure have picturesquely been referred to as handmaidens to justice, but this does not mean that they can be wantonly ignored because, if so done, a miscarriage of justice inevitably and inexorably ensues. The statutory law and the processual law are two sides of the judicial drachma, each being the obverse of the other. In the case in hand, had the tenant diligently filed an*



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ap- peal against the decree at least in respect of OS No. 5 of 1978, the legal conundrum that has manifested itself and exhausted so much judicial time, would not have arisen at all.

30. It would not be logical to overlook that the pleadings on behalf of the tenant were common in all three suits, and that issues on this aspect of the dispute had been claimed by the tenants in all the three suits. On a holistic and comprehensive reading of the pleadings of the tenant in all the three suits, it is inescapable that the tenant had intendedly, directly and unequivocally raised in its pleadings the question of the title to the demised premises and the legal capacity of the trustees to convey the lands to the transferees. This is the common thread that runs through the pleadings of tenant in all three suits. It is true that if OS No. 5 of 1978 was a suit for injunction simpliciter, and in the wake of the stance of the trustees and transferees that no threat had been extended to the tenants regarding their ouster, any reference or challenge to the ownership was wholly irrelevant. But the ownership issue had been specifically raised by the tenant, who had thus caused it to be directly and substantially in issue in all three suits. So far as Suits Nos. 6 and 7 of 1978 are concerned, they were also suits simpliciter for the recovery of rents in which the defence pertaining to ownership was also not relevant; no substantial reason for the tenant to file an appeal in OS No. 6 of 1978 had arisen because the monetary part of the decree was relatively insignificant. Obviously, the tenants' resolve was to make the ownership the central dispute in the litigation and in these circumstances cannot be allowed to equivocate on the aspect of ownership. Logically, if the question of ownership was relevant and worthy of consideration in OS No. 6 of 1978, it was also relevant in OS No. 5 of 1978.

31. Viewed in this manner, we think it is an



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inescapable conclusion that an appeal ought to have been filed by the tenant even in respect of OS No. 5 of 1978, for fear of inviting the rigours of res judicata as also for correcting the "dis- missal" order. In our opinion, the tenant had been completely non-suited once it was held that no cause of action had arisen in its favour and the suit was "dismissed". Ignoring that finding and allowing it to become final makes that conclusion impervious to change. In Sheoparsan Singh v. Ramnandan Prasad Singh¹², the Privy Council opined

"Res judicata is an ancient doctrine of universal application and permeates every civilized system of jurisprudence. This doctrine encapsulates the basic principle in all judicial systems which provide that an earlier adjudication is conclusive on the same subject-matter between the same parties."

The raison d'être and public policy on which res judicata is predicated is that the party who has raised any aspect in a litigation and has had an issue cast thereon, has lead evidence in that regard, and has argued on the point, remains bound by the curial conclusions once they attain finality. No party must be vexed twice for the same cause; it is in the interest of the State that there should be an end to litigation; a judicial decision must be accepted as correct in the ab- sence of a challenge. The aspect of law which now remains to be considered is whether filing of an appeal against a common judgement in one case, tantamounts to filing an appeal in all the matters.

32. The application of res judicata, so very often, conjures up controversies, as is evident from the fact that even in this Court divergent opinions were expressed by the two-Judge Bench, leading to the necessity of referring the appeal to a larger Bench. It



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was for this reason that we thought it appropriate to deal with the dispute in detail. It seems to us that had the decisions of the three-Judge Bench in Lonankutty and Prabhu been brought to the attention of our learned and esteemed Brothers on the earlier occasion when this appeal was heard by the two-judge Bench, the dichotomy in opinion would not have arisen. The outcome of the appeal before the High Court would have also shared a similar fate.”

22.Applying the above ratio laid down by the Hon'ble Supreme Court to the facts of the present case, when the appellant in S.A.Nos.867 & 869 of 2018 have no subsisting interest, there is a bar under Section 34 of the Specific Relief Act to grant any declaration of their status or right. In fact, even under Section 41(j), when the plaintiff has no personal interest in the matter, injunction cannot be granted. Therefore, it would have been proper for the purchaser, namely the 12th defendant in O.S.No.299 of 2008 and the 4th appellant in S.A.No.876 of 2018 to have challenged the judgment and decree in all the three appeal suits and when he has admittedly failed to challenge the judgment and decree in two of the three appeals and chosen to only join as the 4th appellant in S.A.No.876 of 2018, that too without obtaining the leave of the Court, the judgment and decree in other suits become final and it is binding on him and consequently, no relief can be granted even in S.A.No.876 of 2018.



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S.A.Nos.868, 869 & 876 of 2018



23.For all the above reasons, the substantial questions of law are answered against the appellants. In the result, all the three Second Appeals are dismissed. There shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

18.04.2024

Neutral Citation :Yes/No.
Speaking order/Non-speaking order

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To

1. The First Additional District and Sessions Court, Salem.
2. The Principal Subordinate Court, Salem.
- 3.The Section Officer, V.R.Section, High Court, Madras.



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S.A.Nos.868, 869 & 876 of 2018

P.B.BALAJI, J,

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Pre-delivery Judgment in
S.A.Nos.868, 869 & 876 of 2018
and C.M.P.No.23370 of 2018

18.04.2024