



S.A.No.209 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	22.09.2025
Pronounced on	10.12.2025

CORAM

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI**

S.A.No.209 of 2024 and C.M.P. No.7057 of 2024

1. K. Mani

2. M. Anbu

...Appellants

Vs.

1. A. Ragini

2. Rani

3. Radhika

4. The Chairman Tamil Nadu Slum Clearance Board,
Chennai-05

5. The District Collector,
Chennai District, Singaravellar Maligai. Chennai

6. The Tahsildar,
For Tondiarpet Taluk, Tondiarpet, Chennai 81.

7. The Sub Registrar,
Sub Registrar Office, Royapuram.

...Respondents

Prayer : Second Appeal filed under Section 100 CPC, 1908 against the decree and judgment dated 18.08.2022 passed in A.S. No.109 of 2020, on the file of the XV Additional Judge, City Civil Court, Chennai, reversing the Judgment and decree dated 13.12.2019 passed in O.S.

Page 1 of 27



S.A.No.209 of 2024

WEB COPY

No.3487 of 2014, on the file of the V Assistant Judge, City Civil Court, Chennai.

For Appellants : Mr. Venkatesh Mahadevan

For Respondents : Mr. K.P. Ashok
for Mr.D. Gopinathan for R1 & R3

Mr. K.R. Gunashekar for R2

Mr. S. Karthikeyan for R4

Mr. V. Ramesh,
Government Advocate for R5 to R7

JUDGMENT

The Second Appeal is directed against the decree and judgment dated 18.08.2022 passed in A.S. No.109 of 2020, on the file of the XV Additional Judge, City Civil Court, Chennai, reversing the Judgment and decree dated 13.12.2019 passed in O.S. No.3487 of 2014, on the file of the V Assistant Judge, City Civil Court, Chennai.

2. The appellants are the defendants 1 and 4 in O.S. No.3487/2014 on the file of the V Assistant Judge, City Civil Court, Chennai.



S.A.No.209 of 2024

WEB COPY 3. The 1st respondent as plaintiff filed the above suit in O.S.

No.3487/2014 for the following reliefs:

a) to declare that the cancellation of settlement deed dated 17.12.1990 bearing document No.2040/1990 and registered on 19.12.1990 at SRO, Royapuram, alleged to have been executed by deceased R. Kannappa Naicker as null and void and not binding on the plaintiff.

b) To declare that the settlement deed dated 27.12.1991 bearing Doc No.2541/1991 at SRO, Royapuram, alleged to have been executed by deceased R.Kannappa Naicker in favour of the 1st and 4th defendant as null and void and not binding on the plaintiff.

c) To declare that the legal heir certificate bearing serial No.1086/92 and D.Dis.A6/26210/1992 dated 01.10.1992 issued by the 7th defendant, the Tahsildar, Fort Tondiarpet Taluk, Chennai 3 as null and void and not binding on the plaintiff.

d) To declare that the order of name transfer in the allotment in favour of the 1st defendant by the 5th defendant's



S.A.No.209 of 2024

WEB COPY proceeding No.7005/94/E1 dated 06.04.1994 as null and void and not binding on the plaintiff and consequently directed the 5th defendant to transfer the allotment in favour of all the legal heirs of Late Kannanna Naicker, i.e., plaintiff and 1st to 3rd defendants.

e) To declare that the sale deed dated 29.07.2003 bearing No.2424/2003 executed by the 5th defendant in favour of the 1st defendant on 27.08.2003 before the SRO, Royapuram, as null and void and not binding on the plaintiff.

(f) To pass a preliminary decree of partition by dividing of the schedule of property into four shares and to allot one share to the plaintiff and to hand over the vacant possession of $\frac{1}{4}$ share of the plaintiff by metes and bounds.

g) To grant permanent injunction restraining the 1st to 4th defendants their men, agents, assigns or any other person claiming under them from dealing with the schedule of property in any manner encumbering or conveying the same to any other persons.



S.A.No.209 of 2024

WEB COPY

h) To direct the 1st and 4th defendants severally and jointly to pay Rs.1,000/- per month as mesne profit from June 2014 till the delivery of the separate possession of the schedule to property.

i) To direct the 1st to 4th defendants to pay the cost of the suit to the plaintiff.

4. The case of the plaintiff is that Plot No. 66, Door No.4, Cheriyan Nagar, New Washermenpet, Chennai 600 081 was allotted by the 5th defendant , Tamil Nadu Slum Clearance Board to one Kannappa Naicker by its proceedings dated 02.02.1984. The said Kannappan was owning ancestral property at Vandhavasi, who died on 20.07.1992 and his wife Andal pre deceased him leaving behind a son and three daughters, namely, Mani, Rani, Ragini and Radika. The said Ragini is the plaintiff in the above suit. According to her, her father Kannappa Naicker settled the property situate at Nuthambadi village to the defendants 1 to 3 and during 1984, he executed an irrevocable settlement deed dated 17.03.1984 settling the suit property in her favour. Thereafter, the



S.A.No.209 of 2024

WEB COPY

plaintiff put up a pacca construction with the income of her husband and all the original documents is in the custody of the 1st defendant. The plaintiff was living along with her parents and was taking care of them until they died. In the year 1987, Kannappa Naicker wrote a letter dated 19.02.1987 to the plaintiff to change the name in the allotment order with the 5th defendant in respect of the suit property in her name. Hence, the plaintiff gave a representation to the 5th defendant and requested to transfer the allotment in her favour. Thereafter, the plaintiff came to know that the 1st defendant, by producing bogus legal heir certificate issued by the Tahsildar, Fort Tondiarpet Taluk, Chennai 600 003, who is the 7th defendant in the suit, mentioning that the defendants 1 to 3 are alone the legal heirs of the Kannappa Naicker and produced the same to the 5th defendant. The plaintiff was purposely omitted to be mentioned in the legal heir certificate dated 01.10.1992. It is further submitted that the 1st defendant, by forging the signatures of the defendants 2 and 3, submitted a bogus consent letter to the 5th defendant for obtaining the sale deed in his favour in respect of the suit property. The plaintiff also came to know about the cancellation deed dated 17.12.1990 cancelling the



S.A.No.209 of 2024

WEB COPY

settlement deed in favour of the plaintiff. The cancellation deed is not valid in the eyes of law for the reason that the cancellation could be effected only through Court of law. Hence, the said cancellation deed is not binding on the plaintiff and that she is the absolute owner of the suit property. Since the sale deed was obtained by the 1st defendant in respect of the suit property, the plaintiff apprehends that the defendants 1 to 4 would alienate the suit property to third party. Hence, the plaintiff filed the above suit claiming 1/4 share in the suit property and for mesne profit.

5. The claim of the plaintiff was resisted by the defendants 1 and 4 by stating that the defendants 1 and 4 are son and grand son of late Kannappa Naicker, who died on 20.07.1992. The defendants 2 and 3 and the plaintiff are the daughters of late Kannappa Naicker. The plaintiff is estopped from filing the above suit for partition and mesne profit. It is submitted that the plaintiff has concealed the earlier writ proceedings filed for the same cause of action and also concealed the fact that the Slum Clearance Board has cancelled the allotment of Plot No.66 in the name of Kannappa Naicker for violation of the terms of conditions and



S.A.No.209 of 2024

WEB COPY

fresh allotment was made in the name of the 1st defendant on 06.04.1994, in which enquiry was conducted on 23.03.1994 in the presence of plaintiff and the 1st defendant. The plaintiff has further concealed the fact that the eviction proceeding was taken under **Section 57 of the Act** by the Slum Clearance Board on 29.06.1994 as against the plaintiff and she was dis possessed from the suit property. It is further submitted that the Slum Clearance Board executed a fresh lease agreement in favour of the 1st defendant on 10.03.1998 and after collecting the entire sale consideration from the 1st defendant executed the sale deed in respect of the suit property on 29.07.2003. The said Kannappa Naicker sent a registered notice to the plaintiff informing about the cancellation of the settlement deed on 17.12.1990 and the same was received by the plaintiff. He then executed another settlement deed on 27.12.1992 bequeathing lease hold right in the suit plot requesting the Board to allot the plot in the name of his son after his death. Again, by a notice dated 03.04.1992 issued in favour of the plaintiff and other daughters about their dis-entitlement to claim any right in the plot in the lis. On 23.03.1994, after perusing the above documents, the Chairman, Slum Clearance Board, in the presence



S.A.No.209 of 2024

WEB COPY

of the plaintiff and the 1st defendant made a fresh allotment in favour of the 1st defendant. Therefore, the relief claimed in the plaint is hopelessly barred by limitation. The 1st defendant has perfected his title and ownership in the suit property by adverse possession and continue to live as a owner in the suit property for the past 20 years. Hence, prayed for dismissal of the suit.

6. The defendants 2 and 3 would contend that the 1st defendant by producing a fabricated legal heir certificate obtained the sale deed from the 5th defendant in respect of the suit property. Since the defendants 2 and 3 are illiterate, the 1st defendant fraudulently sold the properties of the family including the shares of the defendants 2 and 3. It is further submitted that the defendants 2 and 3 never gave any consent letter to the 1st defendant for getting the sale deed in his favour from the 5th defendant in respect of the suit property. Hence the above defendants would submit that the 1st defendant has no exclusive right over the suit property.

7. The contention of the 5th defendant is that the 1st defendant by



S.A.No.209 of 2024

WEB COPY

producing the legal heir certificate from the 7th defendant office submitted an application to the 5th defendant Board on 08.03.1984 seeking for name transfer in respect of the suit property. After scrutinising the above legal heir certificate and the consent letter from the defendants 2 and 3, sale deed was executed in favour of the 1st defendant. At that time, the plaintiff has neither sent any objection or representation letter to the Board. Since the plaintiff has filed the above suit for partition claiming 1/4 share in the suit property, the same will be considered by the Board. It is further submitted that as per Section 65 of the Slum Areas (Improvement and Clearance) Act, 1971, no civil suit can be entertained as against the Slum Clearance Board. Hence, prayed for dismissal of the suit.

8. The trial court, after framing necessary issues, dismissed the suit filed by the plaintiff. Aggrieved over the same, the plaintiff filed the appeal suit in A.S. No.109/2020 before the XV Additional City Civil Court, Chennai, and the first appellate court reversed the same and decreed the suit as prayed for. Challenging the same, the present Second



S.A.No.209 of 2024

WEB COPY

Appeal has been preferred by the defendants 1 and 4.

9. The Second Appeal has been admitted on the following substantial questions of law:

“(1) Whether the Learned First Appellate Court is correct in holding that the right to the Suit Property is subject to the Personal laws of the Parties to the Suit, when the Suit Property is not the absolute intestate Property of the deceased father of the 1st Appellant/1st Defendant and 1 to 3rd Respondents/Plaintiff and 2nd & 3rd Defendants?

(2) Whether the Learned First Appellate Court is correct in holding that the Plaintiff is entitled to approach the Civil Court, on the question of conveyance of Property of the Tamil Nadu Slum Clearance Board, when The Tamil Nadu Slum (Improvements & Clearance) Act 1971, has set out the provision for Appeal under Section 59 of the said Act?



S.A.No.209 of 2024

WEB COPY

(3) Whether the Learned First Appellate Court is correct in holding that Section 65 of The Tamil Nadu Slum (Improvements & Clearance) Act 1971 setting out bar of jurisdiction of the Civil Court, does not apply to the Plaintiff's case?

(4) Whether the Learned First Appellate Court is correct in holding Section 69 of The Tamil Nadu Slum (Improvements & Clearance) Act 1971 setting out that the Act is to override other Laws, does not apply to the Plaintiff's case?

(5) Whether the Learned First Appellate Court is correct in not holding that Laws of Limitation would bind the 1st Respondent/Plaintiff from making claim to all the relief stated in the Plaint?"

10.The learned counsel for the appellant/1st defendant would submit that there was only allotment order in favour of the father of the



S.A.No.209 of 2024

WEB COPY

plaintiff and the defendants 1 to 3 and that he had not entered into lease cum sale agreement with the Tamil Nadu Slum Clearance Board, **which is the second process of becoming** a owner of the immovable property vested with the Board under The Tamil Nadu Slum (Improvement and Clearance) Act, 1971. Under such circumstances, the plaintiff cannot claim that the suit property is the ancestral property of her father Kannappa Naicker. He would further submit that, in view of the cancellation of allotment order in favour of Kannappa Naicker and in the absence of title in his favour, the plaintiff is not entitled to claim $\frac{1}{4}$ share in the suit property and that the 1st defendant alone is the absolute owner of the suit property, who is in possession and enjoyment for the past 20 years. Hence, the suit is barred by limitation. The learned counsel would further submit that once the suit is filed by the plaintiff for cancellation of transaction, it would be governed by Article 59 and that if the plaintiff is not in possession of the property, she may file a suit for declaration that deed is not binding upon her. But, if there is no possession thereof, even under a void transaction, the right by way of adverse possession may be claimed. Thus, it is not correct to contend that the provisions of the



S.A.No.209 of 2024

WEB COPY

Limitation Act, would have no application at all, in the event the transaction is held to be void. Hence the suit filed by the plaintiff is hopelessly barred by Limitation and the first appellate court ought not to have granted the relief claimed by the plaintiff. His further contention is that mere statement in the plaint that a fraud has been played is not enough and the allegations of fraud must be specifically averred in the plaint, otherwise merely by using the word 'fraud', the plaintiff would try to get the suit within the limitation, which is otherwise, may be barred by limitation. In the present case, the plaintiff cleverly drafted by using the word 'fraud' to bring the suit within a period of limitation, which cannot be permitted. His further contention is that the court of first appeal has jurisdiction to reverse or affirm the findings of the trial court. When the court of first appeal takes a different view, the judgment of the first appellate court must show the conscious application of mind, record its finding based on the evidence adduced by the parties and the judgment must record the reason as to why the first appellate court differs from the judgment of the trial court. In this case, the judgment of the first appellate court has not answered all the points arising for determination



S.A.No.209 of 2024

WEB COPY

and the evidence adduced thereon. With proper appreciation of the materials on record, the first appellate court erred in decreeing the suit in favour of the plaintiff, which warrants interference by this Court. In support of his contentions, he has relied upon the following judgments:

- 1. 2024 SCC Online SC 3844 (Shri Mukund Bhavan Trust and others vs. Shrimant Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle and another).***
- 2. 2024 SCC Online Del 8583 (Nitin Saxena vs. Amit Samena)***
- 3. (2019) 2 SCC 727 (Jamila Begum (dead) through legal representatives vs. Shami Mohd (dead) through legal representatives.***

11. On the other hand, the learned counsel for respondents 1 to 3 would submit that the 1st defendant has fraudulently obtained legal heir certificate on 01.10.1992 from the 7th defendant excluding the name of the plaintiff. He would submit that the suit property was originally



S.A.No.209 of 2024

WEB COPY

allotted to the father of the plaintiff namely Kannappa Naicker and the installments were paid by the plaintiff to the 5th defendant from 1984 to 1994. Thereafter, her father Kannappa Naicker wrote letters to the plaintiff to change the allotment in her favour since the 1st defendant was troubling him for getting his share in the suit property. The defendants 1 to 4 forcibly took her father Kannappan to cancel the settlement deed executed in her favour in respect of the suit property. It is further submitted that the said Kannappa Naicker died on 20.07.1992, where as the alleged legal heirs certificate produced by the 1st defendant was obtained on 01.10.1992 omitting the name of the plaintiff. In order to grab the suit property from the plaintiff, on the guise of the fraudulent legal heir certificate, the 1st defendant approached the 5th defendant for name transfer and to allot the suit property in his favour. The application submitted by the plaintiff for name transfer was not considered by the 5th defendant though the 5th defendant knew that the plaintiff is the daughter of Kannappa Naicker. Without consent letter from the plaintiff, the 5th defendant has passed allotment order in favour of the 1st defendant, which is liable to cancelled. It is further submitted that the defendants 2 and 3



S.A.No.209 of 2024

WEB COPY

never gave any consent letter on 10.03.1994 to the 5th defendant for executing the sale deed in favour of the 1st defendant by making false representation. The 5th defendant colluded with the 1st defendant, forcibly evicted the plaintiff from the suit property. Thereafter, the 1st defendant fraudulently got the lease of sale agreement and sale deed in his favour from the 5th defendant. Hence, the plaintiff was constrained to file the above suit claiming for cancellation of the above document fraudulently obtained by the 1st defendant from the 5th defendant and for $\frac{1}{4}$ share in the suit. The learned counsel for the respondents 1 to 3 submits that the suit for partition cannot be hit by Sections 65 and 69 of Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971. Even Section 69 of the said Act, has an over riding effect over all other laws for time being in force, it could not be stated that personal laws applicable to the parties concerned will not apply to the facts and circumstances of the present case. Section 69 of the Act will apply only in the event of their being a provision in the Act contrary to the common law relating to succession. Since there is no provision in the Act prescribing the mode of transfer of allotment on the death of the original allottee, the personal laws of the



S.A.No.209 of 2024

WEB COPY

parties involved in the case cannot be ignored. It is submitted that the allotment in favour of the 1st defendant by the Board has been passed on mis representation of the 1st defendant that he was only the legal heir of the original allottee namely Kannappa Naicker, such a defect cannot be condoned by the mere reason that the amounts had been paid by the 1st defendant reason that the amounts paid by the 1st defendant. He would further submit that if an allotment order is made and the sale deed is executed in favour and one of the legal heirs of the allottee, the said legal heir will hold the property as members for other legal heirs. It is further submitted that the personal laws that apply to the parties, do not stand excluded in matters of allotment made by the Tamil Nadu Slum Clearance Board. Once it is found that the 1st defendant was holding the property as a trustee on behalf of other heirs, he has no right to deal with the property. To support his contentions, he has relied upon the following judgments:

1. 2008 4 CTC 468 (*Rita vs. C. Suseela & others*)
2. Judgment of this Court dated 15.11.2019 in S.A. No.1100 of 2019 (*K.Ambigapathy and others vs. K. Subha and others*)
3. Judgment of this Court dated 03.07.2024 in W.A. No.1935 of



S.A.No.209 of 2024

WEB COPY 2022 (*Chief Controlling Revenue Authority and others vs. V.*

Sekar and another).

4. *Judgment of this Court dated 17.06.2019 in S.A. No.646 of*

2019 (Kathirvel and others vs.D. Loganayaki and others)

5. *2022 3 SCC (Civil) 795 (Mrs. Umadevi Nambiar vs.*

Thamarasseri Roman Catholic Diocese)

6. *2024 Supreme (online) (MAD) 24270.*

7. *2019 4 CTC 543 (Natarajan vs. M. Ravi & ors)*

8. *2022 (1) MWN (Civil) 220 (Badrilal vs. Suresh & others)*

9. *2025 0 INSC 48 (State of UP vs. R.K. Pandey & another.*

10. 1994 1 SCC 1 (S.P. Chengalvaraya Naidu vs. Jagannath (d)

by Lrs.)

11. *2011 (2) CTC 88 (P.S.G Ganga Naidu and Sons Charities vs.*

The Special Commissioner and Commissioner – Land

Reforms.

12. *2018 7 MLJ 231 (Mokkamaya Thevar vs. Rajamani Pillai.*

12. Heard on both sides. Records perused.



S.A.No.209 of 2024

WEB COPY

13. The case involved a property dispute between the defendants and the plaintiff over the allotment of a property by the Tamil Nadu Slum Clearance Board. The plaintiff Ragini, claiming to be the legal heir of the original allottee Late Kannappan, sought for declaring the cancellation deed and the settlement deeds as null and void and not binding on the plaintiff and to declare that the order of name transfer in the allotment in favour of the 1st defendant by the 5th defendant as null and void and not binding on the plaintiff and to direct the 5th defendant to transfer the allotment in favour of all the legal heirs of Late Kannappa Naicker and to declare the sale deed executed in favour of the 1st defendant on 27.08.2003 by the 5th defendant as null and void and pass a preliminary decree of partition and to allot $\frac{1}{4}$ share to the plaintiff.

13.1. The specific contention of the appellant is that, the original allotment order in favour of Kannappa Naicker was cancelled on 10.03.1998 by TNSCB for violating the terms and conditions of the allotment and that he had no connection with the suit property, which was



S.A.No.209 of 2024

WEB COPY

vested only with the TNSCB, the 5th defendant. He would further contend that, based on the application of the 1st defendant, the suit property was allotted to him afresh and not by way of succession. It is further contended that, the plaintiff has not availed the right of appeal as provided under the Tamil Nadu Slum (Clearance and Improvement) Act, 1971. The present suit is barred under Section 65 and 59 of the said Act, since the property is vested with the TNSCB and the personal laws are not applicable.

13.2. It is not in dispute that the deceased Kannappa Naicker had three daughters and one son. The plaintiff is one of the daughters and the 1st defendant is the son of Late Kannappa Naicker. While so, the 1st defendant had obtained a legal heir certificate for the deceased Kannappa Naicker, from the 7th defendant, excluding the name of the plaintiff. The said legal heir certificate was marked as Ex.A10 before the trial court. Admittedly, the original allotment was made in favour of Late Kannappa Naicker under Ex.A2, who died on 20.07.1992, till then no sale deed was executed by TNSCB in his favour. Therefore, he did not become the



S.A.No.209 of 2024

WEB COPY

absolute owner of the property till his death. Hence, all the documents executed by Late Kannappa Naicker in favour of the plaintiff and the 1st defendant are not valid. However, there is nothing on record to show that the allotment order in favour of the deceased Kannappa Naicker was set aside or cancelled by TNSCB. Though it is argued on the side of the appellant/1st defendant that the 5th defendant TNSCB has allotted the suit property on 10.03.1998 in favour of the 1st defendant after proper enquiry, the 5th defendant has clearly stated that based on the consent letters from the defendants 2 and 3 and the legal heir certificate issued by the 7th defendant, the original allotment order in favour of Late Kannappa Naicker was cancelled and a fresh allotment order was given in favour of the 1st defendant. Hence, it is made clear that the original allotment order in favour of Kannappa Naicker was cancelled on 10.03.1998 after the death of Kannappa Naicker on 20.07.1992, transferred the allotment in favour of the 1st defendant only after perusing the consent letters and legal heir certificate produced by the 1st defendant. The defendants 2 and 3 have contended that they have not given any consent letter to the 1st defendant and the same is fabricated. Since the 1st defendant has obtained



S.A.No.209 of 2024

WEB COPY

the allotment order by producing false documents, the allotment order in favour of the 1st defendant is nothing but outcome of fraudulent documents obtained by mis representation. Placing reliance on the proposition laid by this Court in S.A. NO.1266 and 1267 of 2007, the case of Rita Vs. Suseela, a suit for partition cannot be hit by Section 65 and 69 of the Tamil Nadu Slum Area (Improvement and clearance) Act, 1971, has an over riding effect over all other laws for the time being in force, it cannot be said that personal laws applicable to the parties concerned will not apply to the facts and circumstances of the present case. Section 69 of the Tamil Nadu Slum Area (Improvement and clearance) Act, 1971, will apply only in the event of there being a provision in the Act contrary to the common law relating to succession. Since there is no provision in the Act prescribing the mode of transfer of allotment on the death of the original allottee, the personal law of the parties involved in the case cannot be ignored. Moreover, the learned counsel appearing for the Tamil Nadu Slum Clearance Board had submitted that the allotment, on the death of the original allottee, would be made in favour of the legal heirs of such allottee. In the present case,



S.A.No.209 of 2024

WEB COPY

since the original allottee, Late Kannappan had died in the year 1992, it was ordered to be allotted in favour of the 1st defendant based on the alleged consent letter and legal heir certificate, which was obtained by mis representation. There is nothing on record to substantiate the claim of the 1st defendant that personal laws have been excluded with regard to the allotment made in his favour by TNSCB, as provided under the Slum Clearance Act. Since the allotment in favour of the 1st defendant by the TNSCB, had been based on the mis representation of the 1st defendant, such a defect cannot be condoned by the mere reason that the amounts had been paid by the 1st defendant. Hence, the suit property is to be partitioned between the plaintiff and the defendants in equal shares, as they were the legal heirs of the original allottee Late Kannappan.

13.3. Accepting the contentions raised on behalf of the plaintiff, the questions of law raised in the present Second Appeal is answered against the appellant/1st defendant and it is held that the plaintiff is entitled to $\frac{1}{4}$ share in the suit property as held by the first appellate court. Accordingly, the judgment and decree dated 18.08.2022 , made in A.S. No.109/2020, on the file of XV Additional Judge, City Civil Court,



S.A.No.209 of 2024

WEB COPY

Chennai, is hereby confirmed and the judgment and decree dated 13.12.2019 in O.S. No.3487 of 2014 on the file of the V Assistant Judge, City Civil Court, Chennai, is set aside. The Second Appeal stands dismissed, accordingly. No costs.

14. In the result,

(1) The Second Appeal is dismissed. No costs. Consequently connected miscellaneous petition is closed.

(2) The judgment and decree dated 18.08.2022, made in A.S. No.109/2020, on the file of XV Additional Judge, City Civil Court, Chennai, is hereby upheld.

10.12.2025

Index: Yes/No

Internet: Yes/No

Page 25 of 27



S.A.No.209 of 2024

WEB COPY Speaking/Non-Speaking order

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To

1. The XV Additional Judge, City Civil Court, Chennai,
2. The V Assistant Judge, City Civil Court, Chennai,
3. The Section Officer, VR Section, High Court, Madras.



WEB COPY



S.A.No.209 of 2024

K.GOVINDARAJAN THILAKAVADI,J.

bga

S.A.No.209 of 2024 and

C.M.P. No.7057 of 2024

10.12.2025