



S.A.Nos.901 and 902 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2025

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

S.A.Nos.901 and 902 of 2017

S.A.No.901 of 2017 :

Balaji alias Suresh

....Appellant

VS

1. Krishnamoorthi (Died)
2.Thiagarajan
3.K.Sivagami
4.K.Selvaraj
5.K.Ravikumar

.... Respondents

(RR3 to 5 are brought on record as LR's of the deceased R1 vide order of Court dated 12.08.2024 made in CMP Nos.11304, 11313 & 11315/2022 in SA No.901 of 2017)

S.A.No.902 of 2017 :

Page 1 of 36



S.A.Nos.901 and 902 of 2017

WEB COPY

1.Sivagami

2.Periasami Pillai

....Appellants

VS

1. Krishnamoorthi (Died)

2.K.Sivagami

3.K.Selvaraj

4.K.Ravikumar

.... Respondents

(RR2 to 4 are brought on record as LR's of the deceased R1 vide order of Court dated 12.08.2024 made in CMP Nos.11331, 11333 & 11329/2022 in SA No.902 of 2017)

Prayer in S.A.No.901 of 2017 : Second Appeal filed under Section 100 CPC, 1908 against the decree and judgment dated 03.10.2016 passed in A.S. No.59 of 2013, on the file of the Subordinate Court, Namakkal, upholding the decree and judgment dated 17.04.2013 passed in O.S.No.505 of 2010, on the file of the Principal District Munsif Court, Namakkal.

Prayer in S.A.No.902 of 2017 : Second Appeal filed under Section 100 CPC, 1908 against the decree and judgment dated 03.10.2016 passed in



S.A.Nos.901 and 902 of 2017

A.S. No.60 of 2013, on the file of the Subordinate Court, Namakkal, upholding the decree and judgment dated 17.04.2013 passed in O.S.No.155 of 2008, on the file of the Principal District Munsif Court, Namakkal.

In S.A.No.901 of 2017 :

For Appellant	: Mr. T.M.Hariharan
R1	: Died
For R2	: No appearance
For R3 to R5	: Mr.S.Mukunth Senior Counsel for Mr.V.P.K.Gowtham

In S.A.No.902 of 2017 :

For Appellant	: Mr. T.M.Hariharan
R1	: Died
For R2 to R4	: No appearance

COMMON JUDGMENT

These second appeals have been preferred as against the common judgments and decrees dated 03.10.2016 passed by the Sub Court,



S.A.Nos.901 and 902 of 2017

Namakkal in A.S.Nos.59 & 60/2013. The appeal in A.S.No.59/2013 has been preferred by the unsuccessful plaintiff as against the decree and judgment passed in O.S.No.505/2010 on the file of the Principal District Munsif Court, Namakkal, dated 17.04.2013.

2. The appeal in A.S.No.60/2013 has been preferred by the defendants as against the decree and judgment passed in O.S.No.155/2008 on the file of the Principal District Munsif Court, Namakkal, dated 17.04.2013. Before the Trial Court the plaintiff in O.S.No.505/2010 has filed the suit for the relief of declaration of title of the property and for permanent injunction. The plaintiffs in O.S.No.155/2008 have filed the suit for the relief of permanent injunction in respect of the suit property therein. Both the suits were tried together and common judgment was passed and the suit in O.S.No.155/2008 was decreed by granting permanent injunction and the suit in

Page 4 of 36



S.A.Nos.901 and 902 of 2017

O.S.No.505/2010 was dismissed.

3. For the sake of convenience, the parties are referred to as per their rank in the trial court and at appropriate places, their rank in the present second appeals would also be indicated.

4. The brief averments of the plaint in O.S.No.155/2008 are as follows :

4.1. The first item of the suit property is a joint family property of the plaintiff and his brother Thiagarajan. The first item of the suit property was allotted through O.S.No.235/1989 on the file of the Sub Court, Namakkal. The brother of the plaintiff namely, Thiagarajan borrowed money and thereby, the properties were brought for auction through Court and one Natesan purchased the property through Court



S.A.Nos.901 and 902 of 2017

auCTION and thereafter, the first defendant purchased the property from the legal heirs of the said Natesan. The plaintiff filed the suit in O.S.No.235/1989 for partition. As per the suit, 4/9th share was allotted to the plaintiff and 1/9th share was allotted to his sister Rajamani, the first defendant has been allotted 4/9 share through decree dated 07.11.1990. Thereafter, the first defendant filed final decree application in I.A.No.163/1991 and obtained separate possession. As per the compromise memo, 'A' plan was prepared and 'A' schedule property to an extent of 1.95 cents, was allotted to the plaintiff and her sister and the first defendant was allotted 'B' schedule property to an extent of 1.56 cents, 0.29 cents is the common cart track and well allotted for both the parties as common.

4.2. The second item of the suit property is Village Natham in S.No.370/A1. The said property along with the house jointly belonged to

Page 6 of 36



S.A.Nos.901 and 902 of 2017

the plaintiff and his brother Thiagarajan and joint patta also granted in their favour. The brother of the plaintiff borrowed money and the creditor filed the suit in O.S.No.479/1989 and the said property was brought for auction through REP 451/1991 and one Veerappa Chettiyar purchased through court auction on 09.06.1993 and thereafter the said Veerappa Chettiyar filed the suit in O.S.No.222/1994 for partition and in that partition suit, there was a compromise between the parties and the entire property was allotted to the share of the plaintiff. Therefore, the property allotted to the plaintiff and his sister, the first item along with second item have been converted into plots. There was electricity service connection in S.C.No.94 and 5 H.P. electric motor was purchased through deed dated 09.06.2007 by the plaintiff from the first defendant. Therefore, the entire service connection belongs to the plaintiff. The second defendant is the husband of the first defendant and they decided to purchase the property for less price and the same was denied by the plaintiff. Now the



S.A.Nos.901 and 902 of 2017

defendants attempted to interfere with the plaintiff's peaceful possession and enjoyment of the property. Therefore, the plaintiff filed the suit for permanent injunction.

5. The brief averments of the written statement and additional written statement filed by the defendants are as follows :

5.1. The suit is false and not maintainable. The averments made in the plaint are denied as false except those that are specifically admitted by the defendants. The description of the property is not correct. It is false to state that the first item of the suit property was allotted to the plaintiff through decree in O.S.No.235/1989 on the file of the Sub Court, Namakkal. It is admitted that the first defendant filed I.A.163/1991 in O.S.No.235/1989 and compromise was entered between the parties.

Along with compromise memo, the plan was attached to the compromise memo in S.F.No.139/5. Except 8 cents all other properties were allotted

Page 8 of 36



S.A.Nos.901 and 902 of 2017

to 'A' schedule and 6 cent was allotted to the common well and remaining path allotted to the 'B' schedule property. Apart from these, common pathway was also allotted. The defendants never interfered with the plaintiff's peaceful possession and enjoyment of the property. In fact the defendants are enjoying the property in their respective shares. The suit is filed with malafide intention and therefore no cause of action arises in the suit and the suit is liable to be dismissed.

5.2. The father of the first defendant purchased the second item of the suit property through sale deed dated 04.04.1949 from one Shanmuga Aachariyar. The said property was bequeathed by Arumugam, who is his son, the first defendant through Will dated 15.02.1992. Thereafter, the first defendant executed a settlement deed dated 30.08.2007 in favour of the second defendant and thereafter, the second defendant executed the settlement deed in favour of her son Balaji @ Suresh through settlement

Page 9 of 36



S.A.Nos.901 and 902 of 2017

deed dated 20.11.2009. Therefore, the properties are now in possession and enjoyment of the son of the defendants. The plaintiff has no any right over the second item of the suit property and the said property belongs to the father of the plaintiff through sale deed dated 07.11.1966. In the said sale deed, within four boundaries the property of the Shanmuga Achariyar has been referred. From the said Shanmuga Achariyar, the first defendant father Arumugam purchased the property through sale deed dated 04.04.1949. Therefore, the second item of the suit property belongs to the first defendant through Will and the plaintiff has no any right over the property. The patta stands in the name of the plaintiff is not binding upon the defendants. The defendants are not parties to the suits in O.S.No.479/1989 and O.S.No.222/1994. Therefore, the suit is liable to be dismissed.

6. Based on the above said pleadings and after hearing both sides,



S.A.Nos.901 and 902 of 2017

the Trial Court framed the following issues in O.S.No.155/2008 :

"(i) Whether the plaintiff is entitled for the relief of permanent injunction as prayed for ?

(ii) To what other relief the plaintiff is entitled ? "

and also framed the following additional issues :

"(i) Is it true that the second item of the property belongs to Balaji son of the defendants and he has been in possession and enjoyment of the property?"

7. The brief averments of the plaint in O.S.No.505/2010 are as follows:

7.1. The suit property belongs to one Shanmuga Aachariyar and the same was purchased by one Arumugam Pillai through sale deed dated 04.04.1949 for a sum of Rs.95/-. Thereafter, the said Arumugam Pillai



S.A.Nos.901 and 902 of 2017

executed a Will in favour of his daughter Sivagami through Will dated 16.02.1992. After the demise of the said Arumugam Pillai, his daughter Sivagami enjoyed the property and thereafter the said Sivagami executed the settlement deed in favour of her husband namely, Periyasamy Pillai through settlement deed dated 30.08.2007. Therefore, Periyasamy Pillai had been enjoying the property and thereafter he executed settlement deed in favour of the plaintiff, who is his son through settlement deed dated 20.11.2009. Therefore, the plaintiff is entitled the said property through settlement deed dated 20.11.2009 and he has been in possession and enjoyment of the property. The defendants have no any right, title or interest over the suit property. Whileso, on 03.09.2010 the defendants attempted to create encumbrances over the property. When the plaintiff asked the defendants not to indulge any unlawful activities, they proclaimed that they are going to create encumbrance over the property by denying the title of the plaintiff. Therefore, the plaintiff filed the suit



S.A.Nos.901 and 902 of 2017

for declaration and permanent injunction not to create any encumbrance over the property.

8. The brief averments of the written statement filed by the defendants are as follows :

8.1. The defendants in their written statement reiterated the plaint averments in O.S.No.155/2008 and averment in the said suit and the written statement are one and the same. The documents filed along with the plaint were created only to grab the property of the first defendant and the same are void and the plaintiff suppressed the suit filed by the first defendant in O.S.No.155/2008 and injunction obtained by them. Therefore, there is no cause of action for the suit and the plaintiff is not entitled to any relief and the suit is liable to be dismissed. (since the averments in the plaint in O.S.No.155/2008 are mentioned in the previous para the same need not be repeated in this para).

Page 13 of 36



S.A.Nos.901 and 902 of 2017

WEB COPY

9. Based on the above said pleadings and after hearing both sides the Trial Court framed the following issues in O.S.No.505/2010 :

"(i) Whether the plaintiff is entitled for the relief of declaration and consequential relief of permanent injunction as prayed for ?

(ii) To what other relief the plaintiff is entitled?"

10. Before the trial court, joint trial was conducted and the common evidence was recorded in both the suits. The suit in O.S.No.155/2008 was taken as main suit and the evidence was recorded. The evidence recorded in that suit also treated as evidence in O.S.No.505/2010. The plaintiff in the suit O.S.No.155/2008 referred as plaintiffs and the defendants in the said suit referred as defendants in both the suits. Before the trial Court, on the side of the plaintiff, they



S.A.Nos.901 and 902 of 2017

examined PW1 and marked Ex.A1 to Ex.A13. On the side of the defendants, DW1 to DW3 were examined and marked Ex.B1 to Ex.B4.

11. The learned trial court Judge, on considering the evidence on record, decreed the suit filed by the plaintiff in O.S.No.155/2008 and dismissed the suit filed by the plaintiff in O.S.No.505/2010. Aggrieved by the said common judgments and decrees passed by the trial court, the defendant in O.S.No.155/2008 has preferred the first appeal in A.S.No.60/2013. The plaintiff in O.S.No.505/2010 has preferred the first appeal in A.S.No.59/2013. After hearing both sides, the First Appellate Court framed the point for determination that

i. Whether the appeal in A.S.No.60/2013 has to allowed by setting aside the decree and judgment passed by the trial court in O.S.No.155/2008 ?



S.A.Nos.901 and 902 of 2017

WEB COPY

ii. Whether the appeal in A.S.No.59/2013 has to allowed by setting aside the decree and judgment passed by the trial court in O.S.No.505/2010 ?

iii. To what other reliefs ?

12. The First Appellate Court, after analysing the evidence on record on both sides, dismissed both the appeals through common judgments and decrees. Aggrieved by the said common judgments and decrees, the appellant in A.S.No.59/2013 has preferred the second appeal in S.A.No.901/2017. The appellants in A.S.No.60/2013 have preferred the second appeal in S.A.No.902/2017.

13. This Court, at the time of admitting the second appeal ,framed the following substantial questions of law in both the appeals :



S.A.Nos.901 and 902 of 2017

“a. Whether the presumption under Section 90 of the Evidence Act is not attracted as regards Ex.B1/ sale deed dated 04.04.1949 produced from proper custody ?

b. Whether Ex.B2/compromise final decree in O.S.No.222 of 1994, Sub Court, Namakkal can confer title on the respondent in the absence of proof of pre-existing title?

c. When title is in serious dispute whether O.S.No.155/2008, District Munsif Court, Namakkal, for bare injunction, is maintainable ?

d. Is not the burden on the plaintiff in O.S.No.155/2008, District Munsif Court, Namakkal to prove his case ?

e. Is the claim of the respondent contrary to the final decree in O.S.No.225/1989, Sub Court, Namakkal, legally sustainable ?”

14. The learned counsel appearing for the appellants in both the



S.A.Nos.901 and 902 of 2017

appeals would submit that the second item of the suit property referred in O.S.No.155/2008 and the property referred in O.S.No.505/2010 originally belonged to one Shanmuga Aachariyaar and he sold the property to one Arumugam Pillai through a sale deed dated 04.04.1949 and the said Arumugam Pillai executed a Will in favour of her daughter Sivagami, who is the first appellant in S.A.No.902/2017 and the said Sivagami executed the settlement in favour of her husband / second appellant through settlement deed dated 30.08.2007, in turn the second appellant / second defendant executed the settlement deed in favour of his son who is the appellant in S.A.No.901/2017. Therefore, the said property has been under possession and enjoyment of the appellant in S.A.No.901/2017, but the Courts below have failed to consider the case of the appellants. The Courts below assumed that the case of the respondents were true and accepted without proof. The Courts below erroneously placed the entire burden of proof on the appellant and the



S.A.Nos.901 and 902 of 2017

courts below failed to see that the plaintiff in O.S.No.155/2008 has failed to prove his case. The Ex.B1 is thirty years old document and produced from proper custody and therefore, it is admissible in evidence and the same has been acted upon. The first respondent is not clear in his plaint about the properties and their evidence is not acceptable one and the respondents/plaintiffs have failed to prove the case through the documents. Therefore, the trial court erroneously decreed the suit filed by the respondents and dismissed the suit filed by the appellant in S.A.No.901/2017. Therefore, the appeals have to be allowed by setting aside the common judgments and decrees passed by the courts below.

15. *Per contra*, learned counsel appearing for the respondents would submit that the appellants in both the appeals relied upon the unregistered document dated 04.04.1949 as basis for their case and thereafter, based on the said document, the Will said to be executed by

Page 19 of 36



S.A.Nos.901 and 902 of 2017

Arumugam Pillai in favour of his daughter Sivagami, the first defendant and the said Sivagami in turn executed settlement deed in favour of her husband / second defendant through the settlement deed dated 30.08.2007, in turn the second defendant in S.A.No.902/2017 executed the settlement deed in favour of the appellant in S.A.No.901/2017. The respondents, being the plaintiffs in O.S.No.155/2008, have produced cogent documents to prove their title and possession, whereas the defendants in the suit have not filed any documents and only they relied upon the unregistered documents and that document is inadmissible in law. As per the Transfer of Property Act, the sale deed executed worth about Rs.100/- should be registered through registered document. In respect of unregistered document, the value is less than Rs.100/- such transfer may be made either by a registered instrument or by delivery of the property. Once the sale deed is under the instrument, it should be registered irrespective of the value of the sale price. Admittedly, in this



S.A.Nos.901 and 902 of 2017

case, the said sale deed dated 04.04.1949 was not registered when it was in the form of instrument. Therefore, unregistered document cannot be relied upon. The alleged Will in favour of the first appellant in S.A.No.902/2017 has also not been proved by examining the attesting witnesses and therefore not proved the alleged Will. Therefore, the subsequent documents executed based on inadmissible documents are not valid and the Courts below have correctly applied the law, appreciated the evidences in proper perspective and thereby, the second appeals are liable to be dismissed.

16. This Court heard both sides and perused the records.

17. In this case, the plaintiff in O.S.No.155/2008 have filed the suit for bare injunction as against the defendants 1 and 2 alleging that the



S.A.Nos.901 and 902 of 2017

property belongs to them through court auction purchase and thereafter, the suits have been filed before the Sub Court, Namakkal and in the said suits, the parties have entered into compromise and based on the compromise, the properties have been allotted to the plaintiff. In order to prove the same, the plaintiff examined Ex.A2 to Ex.A6. The plaintiff also produced revenue records for the possession of the property and marked Ex.A8 to Ex.A13. The defendants contention is that the father of the first defendant in O.S.No.155/2008 namely, Arumugam Pillai had purchased the property through an unregistered sale deed dated 04.04.1949 from one Shanmuga Aachariyar and thereafter, Arumugam Pillai executed the Will dated 16.02.1992 in favour of the first defendant, Sivagami and after demise of Arumugam Pillai, the said Sivagami entitled the property through Will. Thereafter, the property was enjoyed by the first defendant Sivagami, the said Sivagami executed the settlement deed in favour of her husband namely, Periyasamy Pillai through settlement deed dated



S.A.Nos.901 and 902 of 2017

30.08.2007 and thereafter, the said Periyasamy Pillai, who is the second appellant herein executed settlement deed in faovur of his son, who filed the suit in O.S.No.505/2010 through settlement deed dated 20.11.2009. The said document have been marked as Ex.B1 to Ex.B4. The plaintiffs in O.S.No.155/2008 has filed the suit for relief of bare injunction.

18. The defendants have claimed the property through Ex.B1. Now the court has to decide whether the plaintiff in O.S.No.155/2008 was in possession and enjoyment of the property on the date of filing of the suit. The documents filed by the plaintiff in respect of the entitlement of his right over property have not been denied. As far as the first item of the suit property is concerned, the defendants have not claimed any rights. The dispute is in respect of second item alone and the defendants denied the title of the plaintiffs and according to the defendants they purchased the property through unregistered sale deed date 04.04.1949. As far as the

Page 23 of 36



S.A.Nos.901 and 902 of 2017

second item of the suit property is concerned, the plaintiff produced the document in Ex.A2 decree passed by the Sub Court, Namakkal in O.S.No.222/1994, wherein the property was allotted to the share of the plaintiff. The plaintiff has also produced the revenue records for his possession but the defendants have not produced any document for their possession. The defendants merely relied upon the document of unregistered sale deed dated 04.04.1949. The other documents are subsequent to the sale deed dated 04.04.1949 and the basis for the claim of the defendants is unregistered sale deed dated 04.04.1949.

19. At this juncture, the learned counsel appearing for the respondent / plaintiff in O.S.No.155/2008 would submit that as per Section 54 of the Transfer of Property Act, the sale should be made in case of tangible immovable property of the value of one hundred rupees and upwards, or in the case of a reversion or other intangible thing, can be

Page 24 of 36



S.A.Nos.901 and 902 of 2017

made only by a registered instrument. In the case of tangible immovable property of a value less than one hundred rupees, such transfer may be made either by a registered instrument or by delivery of the property. In this case, the document dated 04.04.1949 is less than Rs.100/-. However once the sale transfer made through an instrument, it should be through registered instrument. But Ex.B1 / sale deed is an unregistered sale deed. Therefore, the said document cannot be relied upon and no transfer was effected through that deed. In support of his contention, he relied upon the judgment of this Court in *Kasinathan and Another vs Umashankar* reported in *(2020) 1 CTC 246* wherein the learned single judge of this court after referring the judgment of Hon'ble Division Bench held that the transaction of sale if in writing, even if it is for a value of less than Rs.100/-, has to be registered and thereby the alleged instrument is not admissible in evidence as a transaction affecting any immovable property comprised therein.



S.A.Nos.901 and 902 of 2017

WEB COPY

20. In this case, the documents relied upon by the defendants in O.S.No.155/2008 is an unregistered document and is not admissible in evidence. Therefore, title of the property has not been passed through that document to Arumugam Pillai. Once the title has been passed to Arumugam Pillai, through an unregistered sale deed dated 04.04.1949 he has no right to execute the Will in favour of his daughter Sivagami. Since Sivagami has no right, she cannot execute any settlement deed in favour of the second defendant, her husband and since the second defendant husband of Sivagami has no right over the property he cannot execute settlement deed in favour of his son, the plaintiff in O.S.No.505/2010. Therefore, the plaintiff in O.S.No.155/2008 has proved possession over the suit property and the defendants in O.S.No.155/2008 and the plaintiff in O.S.No.505/2010 have not proved the title and possession of the property. The suit in O.S.No.155/2008 has been filed for the relief of



S.A.Nos.901 and 902 of 2017

permanent injunction and the plaintiff has proved his possession and thereby he is entitled for permanent injunction.

21. As far as the suit filed by the plaintiff in O.S.No.505/2010 is concerned, he filed the suit for declaration and for permanent injunction not to create encumbrance over the property. This Court in previous paragraph decided that the title of the property has not been passed in favour of Arumuga Pillai through unregistered sale deed dated 04.04.1949 and thereby the plaintiff in O.S.No.505/2010 has no right, title or interest over the property. The plaintiff in O.S.No.505/2010 has not filed any documents to prove his possession and therefore he is not entitled to the relief of declaration of the property. The courts below have appreciated the facts and applied the law correctly and therefore decreed the suit filed by the plaintiff in O.S.No.155/2008 and dismissed the suit filed by the plaintiff in O.S.No.505/2010.

Page 27 of 36



S.A.Nos.901 and 902 of 2017

WEB COPY

b. Whether Ex.B2/compromise final decree in O.S.No.222 of 1994, Sub Court, Namakkal can confer title on the respondent in the absence of proof of pre-existing title?

The plaintiff has filed the suit in O.S.No.155/2008 by relying upon the compromise entered in final decree in O.S.No.222/1994, Sub Court, Namakkal, which was marked as Ex.A2. In the said substantial question of law, instead of typing as Ex.A2 inadvertently typed as Ex.B2. As per compromise the property was allotted to the plaintiff. The plaintiff has filed the suit for permanent injunction and not filed for declaration. Already the plaintiff has proved his possession through documents. But the suit in O.S.No.505/2010 was filed by the plaintiff for the relief of declaration and the suit filed by the plaintiff for declaration has to prove his title over the property and they relying upon Ex.B1 unregistered sale deed dated 04.04.1949. This Court already decided that deed is

Page 29 of 36



S.A.Nos.901 and 902 of 2017

inadmissible evidence and no title was passed to Arumugam Pillai through sale deed. Therefore, Ex.A2 / compromise final decree in O.S.No.222/1994, Sub Court, Namakkal, in the absence of proof of pre-existing title cannot confer any title to the respondents. However, it can be taken as document for possession of the respondents / plaintiffs in O.S.No.155/2008. Thus the substantial question of law is answered.

c. When title is in serious dispute, whether O.S.No.155/2008, District Munsif Court, Namakkal, for bare injunction, is maintainable ?

The plaintiff in O.S.No.155/2008 filed the suit for bare injunction but the defendants have disputed the title of the property. Once the defendants disputed the title of the property, it is the duty of the plaintiff to seek declaration of the title. However, the defendants have not produced any acceptable document to prove the title and there is no any cloud of title of the property. In the absence of any cloud over the

Page 30 of 36



S.A.Nos.901 and 902 of 2017

property, the suit for bare injunction suit is maintainable.

It is well settled law that in all cases the plaintiff need not seek for declaration merely the defendants denied the title and therefore the suit for bare injunction is maintainable.

d. Is not the burden on the plaintiff in O.S.No.155/2008, District Munsif Court, Namakkal to prove his case ?

The plaintiff in O.S.No.155/2008 has filed the suit for permanent injunction. As far as, the permanent injunction is concerned, the Court has to see whether any lawful possession, whether the plaintiff is in possession on the date of plaint or not. The plaintiff has filed the document to prove his possession and the courts below also relied upon



S.A.Nos.901 and 902 of 2017

the document filed by the plaintiff for possession and correctly, came to a fair and conclusion on the burden of proof is on the plaintiff in O.S.No.155/2008 to prove the possession for grant of permanent injunction and he also proved. Thus the substantial question of law is answered.

e. Is the claim of the respondent contrary to the final decree in O.S.No.235/1989, Sub Court, Namakkal, legally sustainable ?

The plaintiff relied upon the final decree passed in O.S.No.235/1989, Sub Court, Namakkal, in respect of the first item of the suit property. There is no dispute in respect of first item of the suit property and therefore, this Court need not go into the aspect of the final decree in respect of the first item of the suit property. Thus the substantial



S.A.Nos.901 and 902 of 2017

question of law is answered.

23. In view of the above said discussions, and answers of the substantial questions of law, this Court is of the opinion that the second appeals filed by the appellants have no merits and deserves to be dismissed. Accordingly, both the second appeals are dismissed. No costs.

24. In the result,

- i. Both the Second Appeals are dismissed. No costs.
- ii. The decree and judgment dated 03.10.2016 passed in A.S. Nos.59 & 60 of 2013, on the file of the Subordinate Court, Namakkal, upholding the decree and judgment dated 17.04.2013 passed in



S.A.Nos.901 and 902 of 2017

WEB COPY

O.S.Nos.505 of 2010 and 155 of 2008, on the file of the Principal

District Munsif Court, Namakkal, are upheld.

25.11.2025

Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

mtl

To

1. The Subordinate Judge, Namakkal.
2. The Principal District Munsif Court, Namakkal.
3. The Section Officer, VR Section, High Court, Madras.



WEB COPY



S.A.Nos.901 and 902 of 2017

P.DHANABAL, J.

mtl

S.A.Nos. 901 and 902 of 2017



WEB COPY



S.A.Nos.901 and 902 of 2017

25.11.2025