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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 21.01.2025

PRONOUNCED ON: 31.01.2025

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)(PD)No.2395 of 2015

- 1.P.B.Rajeshwara Raja
- 2.Thilagam
- 3.S.V.Jayakumar
- 4.R.Rathi
- 5.N.K.Ramaswamy Raja
- 6.N.K.Venkateshwara Raja
- 7.N.S.Krishnama Raja
- 8.N.K.Ramkumar Raja

... Petitioners

(Petitioners 7 and 8 are represented by power agent of N.K.RSrikanth)

vs.

The Deity of Paravai Annam,
Kanththarulia Swamy Thirukovil,
Pudupalayam through its Executive Officer.

...Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to allow the CRP with cost by striking off the suit in O.S.No.132 of 2015 on the file of the Subordinate Court, Srivilliputhur.

For Petitioners	:Mr.N.Krishnaveni Senior Counsel for Mr.A.Sivaji
For Respondents	:Mr.S.Manohar



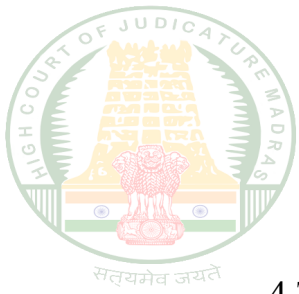
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ORDER

The present Civil Revision Petition has been filed to strike off the plaint in O.S.No.132 of 2015 on the file of the Subordinate Court, Srivilliputhur.

2.The Revision Petitioners are the defendants in the suit instituted by the plaintiff in O.S.No.132 of 2015 on the file of the Subordinate Court, Srivilliputhur. The suit was filed for declaration of title and for recovery of possession of the plaint schedule property and for future mesne profits.

3.The plaintiff contended that a wrong entry was made by Archaka, Parasurama Pattar and his transferees in respect of the suit schedule property. In the year 2006, when an application was made by them to restore the patta in the name of the plaintiff by way of filing an application to the Revenue Divisional Officer, Sivakasi, on 05.07.2010, the Revenue Divisional Officer had rejected the claim made by the plaintiff. A Revision Petition was filed before the District Revenue Officer, Virudhunagar and on 22.09.2012, the said Revision Petition was also rejected.



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4.The plaintiff had claimed that the suit schedule property belongs to them and seeking delivery of vacant possession of the suit schedule property to the plaintiff. The suit schedule property falls within Pudhupalayam Village, Rajapalayam Taluk, Virudhunagar District in S.Nos.291.A1 (2.89.5 Hectares), 291/2A (0.00.5 Hectares), 291/2B (0.02.0 Hectares), 291/2C (0.29.0 Hectares), 291/2D (0.01.5 Hectares), 291/2E (0.22.5 Hectares) to the total extent of 3.45.0 Hectares. The plaintiff along with the plaint had filed several documents to establish their case to ascertain the claim and right over the Temple. The defendants have filed the present Civil Revision Petition to strike off the plaint by invoking Article 227 of the Constitution of India.

5.The learned Senior Counsel appearing for the Revision Petitioners primarily contended that the Temple had filed a Writ Petition before this Court in W.P.(MD)No.713 of 2013. The said Writ Petition was dismissed on 03.06.2015, wherein, this Court had passed the following order:

“15.A perusal of the materials placed before this Court would reveal the following facts:

15.1. The Board of Commissioners for Hindu Religious Endowments, Madras, by order dated 22.04.1940, declared the petitioner temple as excepted one.



15.2. The Settlement Tahsildar, Kovilpatti, conducted an enquiry under Section 11 of the Madras Minor Inam Abolition Act, 1963 (Act 30 of 1963), into the claims for ryotwari patta in respect of the lands in S.Nos.291/A, B, C and 290/1 in the village of 41, Pudupalayam, in Rajapalayam Sub Taluk, endowed for rendering pooja service in the petitioner temple and passed the following order, dated 01.03.1967:

"4. The extract from the B register for the village (EXCI) shows that the grant has been confirmed by the Government and that these are the lands dealt with in the grant. This grant has to be dealt with under section 8(2) of the Act alone in the absence of any rebuttal proof under section 44 of the Act. From the evidence on record, I am satisfied that this is an iruvaram grant and that the present occupants except Kandasami Raja are entitled on payment of consideration to Government under section 8(2)(1)(b) for an extent of 7.16 cents in S.No.291-A and that the temple of Sri.Paravaiannam Katharuliaswami represented by the service holder Sivakamiammal is entitled to patta under section 8(2)(ii) read with section 8(5) for the remaining extent of 87 cents. Patta will issue accordingly for the land in the joint names of Dharma Raja, Subramania Raja, Ponnambalam, Lakshmanaperumal, Sivagurunathan and the temple represented by the service holder Sivakamiammal jointly."

15.3. Accordingly, the patta has been issued in respect of S.No. 291/A in favour of the above individuals by the Settlement Tahsildar.

15.4. In the impugned order, it has been held by the second respondent that insofar as S.Nos.291/B and 291/C are concerned, they were Government poramboke lands.

15.5. The second respondent has categorically found that since the petitioner temple has been declared as excepted one, the provisions of the [Hindu Religious and Charitable Endowments Act](#), have no application to the petitioner temple and therefore, the patta has not been granted in the name of the petitioner temple, but, in favour of the service holder and hence, no action has been taken as against



the said Parasurama Battar who sold the lands in question through the registered sale deeds. Thereafter, the patta in respect of the said lands, has been transferred in the names of the respondents 5 to 13 herein.

15.6. Further, the second respondent found that the petitioner temple did not take any steps to retrieve the lands in question by challenging the proceedings of the Settlement Tahsildar, Kovilpatti, who had granted the ryotwari patta in favour of the individuals. The petitioner temple ought to have filed the appeal before the appropriate forum in this regard, but, it failed to do so and no documentary evidence was let in before the second respondent to prove the same.

15.7. Therefore, the second respondent held that the petitioner temple had not filed any objection as per [Section 46](#) of the Act 30 of 1963, impugning the grant of ryotwari patta and therefore, the petitioner has to seek remedy before the appropriate civil Court.

16. Considering the submissions put forth on either side and taking into account the dicta [laid down in](#) the decisions relied on by the parties, this Court is of the view that this writ petition lacks merit and is liable to be dismissed for the following reasons:

(i) No materials have been produced either before the respondent 2 and 3 or before this Court to establish that the petitioner temple had taken effective steps to challenge the proceedings of the Settlement Tahsildar, Kovilpatti, who had granted ryotwari pattas in favour of the individuals, by his order dated 01.03.1967.

(ii) In the absence of the same, the petitioner cannot claim any right over the said lands at this distant point of time by filing this writ petition.

(iii) The second respondent has rightly found that since the petitioner temple is declared as excepted one, the patta has not been given in the name of the petitioner temple as per the provisions of the Act 30 of 1963.

(iv) Similarly, no action was taken as against the said Parasurama Battar for the sale effected by him in favour of the private individuals.



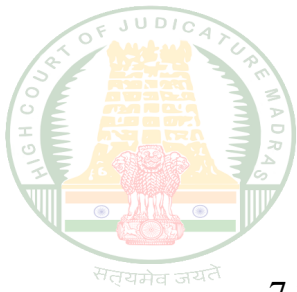
(v) *Having kept quiet for the decades together, it is not for the petitioner temple to raise its objection suddenly without any iota of evidence and only in the year 2006 alone, the claim for patta transfer has been made by the Assistant Commissioner, H.R & C.E., Virudhunagar.*

(vi) *This Court finds that the second respondent has scrutinised the entire materials available before him and made a thorough study on it and rightly held that the petitioner temple is not entitled to claim any right over the lands in question.*

(vii) *Also, this writ petition fails on the ground of delay and laches.*

17. In fine, this writ petition stands dismissed. However, the petitioner temple is given liberty to work out the remedy before the appropriate forum in accordance with law. Consequently, the connected miscellaneous petition is dismissed. In the facts and circumstances of the case, there shall be no order as to costs."

6.The learned Senior Counsel further contended that a categorical finding was given by this Court that the suit is barred by limitation and the finding given by this Court in that Writ Petition is binding on facts and law and the plaint cannot be entertained on the ground of limitation. An argument was advanced by the learned Senior Counsel appearing for the Revision Petitioners that as against the order passed by the Settlement Tahsildar, neither an appeal nor a revision was filed challenging the said order and the order passed by the Settlement Tahsildar has become final.



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7. The learned Senior Counsel for the Revision Petitioners had relied upon the following the judgments:

(1) The Hon'ble Supreme Court in **(1990) 2 SCC 715** between the ***Direct Recruit Class-II Engineering Officers Association and others vs State of Maharastra and others*** with regard to the principles of *res judicata* and including the rule of *constructive res judicata*, had held as follows:

“44.....
(k) That a dispute raised by an application under Art.32 of Constitution of India must be held to be barred by principles of *res judicata* including the rule o principles of *res judicata* if the same has been earlier decided by a competent Court by a judgment which became final.”

(2) The Hon'ble Supreme Court in **(1998) 4 SCC 361** between ***Ashok Kumar Srivastav vs National Insurance Company Limited and others***, had held as follows:

11. It is well-nigh settled that a decision on an issue raised in a writ petition under Article 226 or Article 32 of the Constitution would also operate as *res judicata* between the same parties in subsequent judicial proceedings. The only exception is that the rule of *res judicata* would not operate to the detriment or impairment of a fundamental

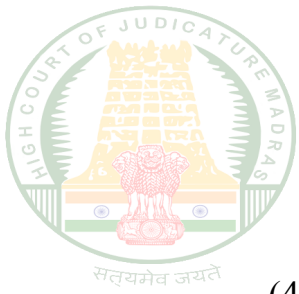


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right. A Constitution Bench of this Court has considered the applicability of the rule of *res judicata* in writ proceedings under Article 32 of the Constitution in *Daryao v. State of U.P.* [AIR 1961 SC 1457 : (1962) 1 SCR 574] and it was held that the basis on which the rule rests is founded on consideration of public policy and it is in the interest of the public at large that a finality should attach to the binding decision pronounced by a court of competent jurisdiction and it is also in the public interest that individuals should not be vexed twice over in the same kind of litigation.”

(3)The Hon'ble Supreme Court in (1998) 4 SCC 361 between ***Ashok Kumar Srivastav vs National Insurance Company Limited and others***, had held as follows:

“10.On the question as to whether a decision in a writ proceedings can operate as *res judicata* or not, it is settled proposition of law that Section 11, C.P.C. is not exhaustive in the matter of principles relating to *res judicata* and that any previous decision by a competent forum on the matter in controversy decided after full contest and after affording fair opportunity to all the parties, the decision will operate as *res judicata* in a subsequent suit. The Supreme Court in its decision in *Gulabchand v. State of Gujarat*, A.I.R. 1965 S.C. 1153 has held that there was no reason to preclude decisions on matters in controversy in writ proceedings under Articles 226 or 32 of the Constitution of India from operating as *res judicata* in a subsequent regular suit on the same matters in controversy between the same parties. The said ruling was subsequently followed in the subsequent decisions of the Supreme Court vide its judgment reported in *Union of India v. Nanak Singh*, AIR 1968 S.C. 1370, and in the judgment reported in *Gulam Abbas v. State of U.P.*, 1982 (1) S.C.C. 71. Therefore, the contention of learned counsel for the appellant that the decision in the writ proceedings will not operate as *res judicata* cannot be upheld.”



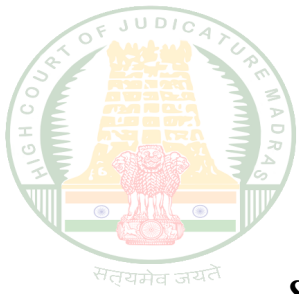
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(4) This Court in the case reported in **2024 SCC OnLine SC 3844** between ***Shri Mukund Bhavan Trust and Others vs Shrimant Chhatrapati Udayan Raje Pratapsinh Maharaj Bhonsle and Another***, had held as follows:

*“25.Regarding the averments made in the plaint relating to fraud played on the plaintiff by the defendants in relation to the compromise decrees obtained in their favour, we are of the view that they are vague and general, besides baseless and unsubstantiated. Rather, no case can be culled out from the averments made in the plaint in this regard. The plea of fraud is intrinsically connected with the nature of Inam. We have already discussed the plea of fraud in the preceding paragraphs. We are also of the view that the plea has been raised only to overcome the period of limitation. Admittedly the Plaintiff is a stranger to the suits which ended in compromise. Therefore, in view of the direct bar under Order XXIII Rule 3A of [CPC](#), he cannot seek a declaration ‘that the compromise decrees passed in Spl. Civil Suit Nos. 152/1951 and 1622/1988 and Civil Appeal No. 787/2001, Pune are void ab initio, null and void and the same are liable to be set aside’. The law on this point is also already settled by this Court in *Triloki Nath Singh v. Anirudh Singh*²⁸. The bar under Order XXIII Rule 3A of [CPC](#) is applicable to third parties as well and the only remedy available to them would be to approach the same court. In the present case, such an exercise is also not possible in view of the bar of limitation. Hence, we find the suit to be unsustainable.”*

(5) This Court in the case reported in **2013 1 CTC 180** between ***N.Babu vs S.Shanmugam and others***, had held as follows:

*“7.In the judgment reported in 2003 (3) MLJ 566, this Court, following the judgment reported in **K.K. Modi v. K.N. Modi, AIR 1998***



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SC 1297 : 1998 (3) SCC 573, has held that the Court has got power to stop vexatious proceedings and when there is a clear abuse of process of Court, the Court has to view such conduct seriously and the same has to be deleted to save the precious time of the public and the Court being wasted.”

All the judgments were relied on the point of rejection of plaint.

8. *Per contra*, regarding limitation, the learned Counsel appearing for the respondent/plaintiff relied upon the factum of the alleged void alienation, which was detected by the Commissioner of HR & CE, Virudhunagar. The said claim was made through an application filed before the Revenue Divisional Officer and the District Revenue Officer, for transfer of patta in the name of the plaintiff, which was dismissed by both the Revenue Divisional Officer and the District Revenue Officer, on 05.07.2010 and 22.09.2012, respectively. The plaintiff claimed that the suit instituted by them falls within the category of limitation, as the alienation was came to know only in the year 2006 and thereafter, the legal proceedings has been commenced and the limitation has to be reckoned only from 22.09.2012. The learned Counsel for the respondents had relied upon the following judgments:



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- (1)AIR 2014 SC 1615 (between Jacky vs Tiny alias Antony and others)*
- (2)AIR 2015 SC 2485 (P.V.Guru Raj Reddy vs V.P.Neeradha Reddy and others)*
- (3)AIR 2015 SC 3357 (Vaish Aggarwal Panchayat vs Inder Kumar and others)*
- (4)(2015) 2 CTC 67 (Kolli Venkata Mohan Rao and another vs J.M.Patricia and others)*
- (5)(2015) 4 CTC 747 (Sarala Vasu vs Belair Corporation Private Limited and others)*
- (6)(2015) 5 CTC 390 (Sri Vari Pharma -vs- Apex Laboratories Private Limited and others)*
- (7)(2015) 1 CTC 385 (V.P.Narayanasamy vs Gurusamy and others)*
- (8)(2010) 8 SCC 738 (Shalini Shyam Shetty and another vs Rajendra Shankar Patil)*
- (9)(2013) 9 SCC 374 (Orissa Power Transmission Corporation Limited and others vs Asian School of Business Management Trust and others)*
- (10)(2013) 9 SCC 374 (Sameer Suresh Gupta through PA holder vs Rahul Kumar Agarwal)*



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(11)(2014) 1 SCC 603 (Commissioner of Income Tax and others vs Chhabil Dass Agarwal)

(12)(2014) 6 SCC 508 (between Jacky vs Tiny alias Antony and others)

(13)(2015) 5 SCC 732 (Soumik Sil vs Subhas Chandra Sil)

(14)(2015) 7 SCC 373 (Himalayan Cooperative Group Housing Society vs Balwan Singh and others);

All the above referred judgments were relied on the ground limitation on the contention that limitation is based on facts and law.

9. Heard the learned Senior Counsel appearing for the petitioners and the learned Counsel for the respondents.

10. An order has been passed by the Settlement Tahsildar in the year 1967 and one Sivakami Ammal wife of Parasurama Pattar was recognised as descendent of the original grantee. In the inam enquiry for the property in S.No. 291/A measuring to an extent of 8 acres and 53 cents, the land was originally allotted to the service holder's husband, who has sold 6.50 acres to one



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Marimuthu in the year 1946 by way of a registered sale deed in Doc.No. 1474/1946. The Settlement Tahsildar had directed that patta shall be issued in the joint names of Dharmaraja, Subramania Raja, Ponnambalam, Lakshmana Perumal, Sivagurunathan and the Temple represented by the service holder, Sivakami Ammal, jointly.

11.From the reading of findings given by the Settlement Tashildar, there is a right for the Temple who has been represented by service holder, Sivakami Ammal. It is to be noted that this Court taking note of the entire facts and circumstances arising in the above Writ Petition, discussed supra, in paragraph 17 of the said order had given a clear finding and the Writ Petitioner/Temple was given liberty to work out their remedy before the appropriate forum in accordance with law.

12.Regarding the suit is not maintainable on the ground of limitation and on the ground that the respondent/plaintiff Temple do not have locus to institute a suit, as the claim made by the plaintiff is without any basis. Admittedly, the order passed by this Court in W.P.(MD)No.713 of 2013 had given liberty to the Temple



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to workout their remedy before the appropriate forum, which is nothing but a right vested with the plaintiff to workout their remedy. Admittedly, the suit has been filed much prior to the final order passed in the Writ Petition. The question of liberty given to the respondent/plaintiff in the Writ Petition does not arise, as the suit has been filed much prior to the final orders passed in the Writ Petition. As a matter of fact, the respondent Temple has a right to claim right over the property, as in the order passed by the Settlement Tahsildar, the Temple property is being mentioned and the Temple has a right over the property.

13.As rightly contended by the learned Counsel for the respondent that by invoking Section 109 of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, the provision of Limitation Act, 1963, shall not be applied in the suit for possession of immovable property belonging to any religious institution or for possession of any interest in such property. Section 109 of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, reads as follows:

“109. Central Act 36 of 1963 not to apply for recovery of properties of religious institution.—Nothing contained in the Limitation Act, 1963 (Central Act 36 of 1963) shall apply to any suit for possession of immovable property belonging to any religious institution or for



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possession of any interest in such property.”

14. In view of Section 109 of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, for the claim made by the respondent/plaintiff for recovery of possession, the question of limitation will not arise, as the suit was filed before the order was passed by Writ Court. Therefore, the question of limitation will not arise.

15. As regards the grant of ryotwari patta and as per Section 8(2)(1)(b) of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari), Act, 1963, the Revision Petitioners are entitled for ryotwari patta in which, a payment of consideration has been made to the Government. Section 8(2)(i)(b) of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari), Act, 1963, reads as follows:

“8. Grant of ryotwari pattas.

(1).....

(2).....

(i).....

(b) for a continuous period of twelve years immediately before the 1st day of April 1960, such person shall, with effect on and from the appointed day, be entitled to a ryotwari patta if he pays as consideration to the Government in such manner and in such number of instalments as



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may be prescribed an amount equal to twenty times the difference between the fair rent in respect of such land determined in accordance with the provisions contained in the Schedule and the land revenue due on such land;”

16.It is to be noted that the payment of charges as contemplated under Section 8(2)(i)(b) of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari), Act, 1963, is a matter of evidence and without any material placed before this Court by the Revision Petitioners/defendants regarding payment, they cannot claim as a matter of right that the order passed by the Settlement Tahildar has become final.

17.A Three Judge Bench of the Hon'ble Supreme Court in the case reported in **(2018) 6 SCC 422** between ***Chhotanben and another vs Kiritbhai Jalkrushnabhai Thakkar and others***, with regard to the application filed under Order VII Rule 11 CPC for rejection of plaint on the ground of limitation, held as follows:

“15.What is relevant for answering the matter in issue in the context of the application under Order 7 Rule 11(d) CPC, is to examine the averments in the plaint. The plaint is required to be read as a whole. The defence available to the defendants or the plea taken by them in the written statement or any application filed by them, cannot be the basis



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to decide the application under Order 7 Rule 11(d). Only the averments in the plaint are germane. It is common ground that the registered sale deed is dated 18-10-1996. The limitation to challenge the registered sale deed ordinarily would start running from the date on which the sale deed was registered. However, the specific case of the appellant-plaintiffs is that until 2013 they had no knowledge whatsoever regarding execution of such sale deed by their brothers, original Defendants 1 and 2, in favour of Jaikrishnabhai Prabhudas Thakkar or Defendants 3 to 6. They acquired that knowledge on 26-12-2012 and immediately took steps to obtain a certified copy of the registered sale deed and on receipt thereof they realised the fraud played on them by their brothers concerning the ancestral property and two days prior to the filing of the suit, had approached their brothers (original Defendants 1 and 2) calling upon them to stop interfering with their possession and to partition the property and provide exclusive possession of half ($\frac{1}{2}$) portion of the land so designated towards their share. However, when they realised that the original Defendants 1 and 2 would not pay any heed to their request, they had no other option but to approach the court of law and filed the subject suit within two days therefrom. According to the appellants, the suit has been filed within time after acquiring the knowledge about the execution of the registered sale deed. In this context, the trial court opined that it was a triable issue and declined to accept the application filed by Respondent 1-Defendant 5 for rejection of the plaint under Order 7 Rule 11(d). That view commends to us.”

18.The Hon'ble Supreme Court in the case reported in **(2019) 4 SCC 367**

between **Pawan Kumar vs Babulal and others**, had held as follows:

“13.In the present case, the controversy has arisen in an application under Order 7 Rule 11 CPC. Whether the matter comes within the purview of Section 4(3) of the Act is an aspect which must be gone into on the strength of the evidence on record. Going by the averments in the plaint, the question whether the plea raised by the appellant is barred under Section 4 of the Act or not could not have been the subject-matter of assessment at the stage when application



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under Order 7 Rule 11 CPC was taken up for consideration. The matter required fuller and final consideration after the evidence was led by the parties. It cannot be said that the plea of the appellant as raised on the face of it, was barred under the Act. The approach must be to proceed on a demurrer and see whether accepting the averments in the plaint the suit is barred by any law or not. We may quote the following observations of this Court in Popat and Kotecha Property v. SBI Staff Assn. [Popat and Kotecha Property v. SBI Staff Assn., (2005) 7 SCC 510] : (SCC p. 515, para 10)

“10. Clause (d) of Order 7 Rule 7 speaks of suit, as appears from the statement in the plaint to be barred by any law. Disputed questions cannot be decided at the time of considering an application filed under Order 7 Rule 11 CPC. Clause (d) of Rule 11 of Order 7 applies in those cases only where the statement made by the plaintiff in the plaint, without any doubt or dispute shows that the suit is barred by any law in force.”

19. The Hon'ble Supreme Court in the case reported in **(2020) 7 SCC 366** between ***Dahiben vs Arvindbhai Kalyanji Bhanusali (Gajra) dead and others***, held as follows:

“28. A three-Judge Bench of this Court in State of Punjab v. Gurdev Singh [State of Punjab v. Gurdev Singh, (1991) 4 SCC 1 : 1991 SCC (L&S) 1082] held that the Court must examine the plaint and determine when the right to sue first accrued to the plaintiff, and whether on the assumed facts, the plaint is within time. The words “right to sue” mean the right to seek relief by means of legal proceedings. The right to sue accrues only when the cause of action arises. The suit must be instituted when the right asserted in the suit is infringed, or when there is a clear and unequivocal threat to infringe such right by the defendant against whom the suit is instituted. Order 7 Rule 11(d) provides that where a suit appears from the averments in the plaint to be barred by any law, the plaint shall be rejected.”



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20. The Hon'ble Supreme Court in the case reported in **(2021) 17 SCC 100** between ***Salim D. Agboatwala and others vs Shamalji Oddhavji Thakkar and others***, had held as follows:

“11. As observed by this Court in P.V. Guru Raj Reddy v. P. Neeradha Reddy [P.V. Guru Raj Reddy v. P. Neeradha Reddy, (2015) 8 SCC 331 : (2015) 4 SCC (Civ) 100] , the rejection of plaint under Order 7 Rule 11 is a drastic power conferred on the court to terminate a civil action at the threshold. Therefore, the conditions precedent to the exercise of the power are stringent and it is especially so when rejection of plaint is sought on the ground of limitation. When a plaintiff claims that he gained knowledge of the essential facts giving rise to the cause of action only at a particular point of time, the same has to be accepted at the stage of considering the application under Order 7 Rule 11.”

21. The Hon'ble Supreme Court in the case reported in **2023 SCC OnLine SC 521** between ***Ramisetty Venkatanna and another vs Nasyam Jamal Saheb and others***, had held as follows:

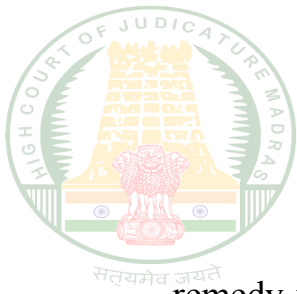
“30. Now so far as the reliance placed upon the decision of this Court in the case of Nusli Neville Wadia (supra) is concerned, again there cannot be any dispute with respect to the proposition of law laid down by this Court that while deciding the application under Order VII Rule XI, mainly the averments in the plaint only are required to be considered and not the averments in the written statement. However, on considering the averments in the plaint as they are, we are of the opinion that the plaint is ought to have been rejected being vexatious, illusory cause of action and barred by limitation and it is a clear case of clever drafting.”



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22. In all above the judgments, the Hon'ble Supreme Court had categorically held that a plaint cannot be struck off on the ground of limitation, as it is a question of facts and question of law which could be determined only by the trial Court.

23. As regards the order passed by the Settlement Tahsildar was never put to challenge by the respondent/plaintiff by way of filing an appeal or revision. The order passed by the Settlement Officer would come into effect as per Section 8(2)(i)(b) of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari), Act, 1963, where, payment has to be made and unless and until, such payment is made by the Revision Petitioners, the order passed by the Settlement Tahsildar will not have a legal force for the claim made by the Revision Petitioners/defendants and unless and until the trial is conducted, where, the Revision Petitioners have to put forth the payment of consideration, through documentary and oral evidence as per Section 8(2)(i)(b) of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari), Act, 1963, and the finding of the Writ Court by giving liberty to the respondent/plaintiff to work out their



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remedy will only establish that the respondent/plaintiff has a right to claim their right. It is for the trial Court to decide upon the contentious issues raised by the Revision Petitioners/defendants and the respondent/plaintiff.

24. In view of the same, the Civil Revision Petition for rejection of plaint is dismissed and the trial Court is directed to proceed further. As the suit is of the year 2015, the trial Court is directed to commence the trial and dispose of the same as expeditiously as possible within a period of one year from the date of receipt of a copy of this order. No costs.

31.01.2025

Internet : Yes/No
NCC : Yes/No
Index : Yes/No

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To

The Subordinate Judge, Srivilliputhur.



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N.SENTHILKUMAR, J.

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