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S.A.No.924 of 1998 etc. batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on 02.04.2025	Delivered on 28.08.2025
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CORAM :

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

S.A.Nos.924 of 1998, 968 to 972 of 1997, 611 of 2002 & S.A.(MD).388 of 2017

The Idols of Sri Jambukeswarar and
Akilandeswari of the Temple of
Jambukeswarar and Akilandeswari,
Thiruvanaikoil, Trichy Tk. by its
Executive Officer, Devasthanam Compound,
Thiruvanaikoil, Trichy Taluk.

.. Appellant in all the Second Appeals

Vs.

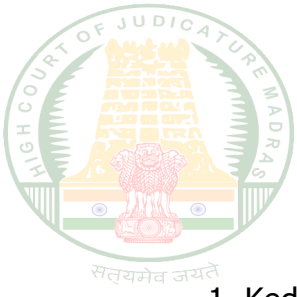
1. V.Subbaiyan, S/o Veeramuthu Muthirayar
2. Abdul Kadar

.. Respondents in S.A.No.924 of 1998

1. A.Subramaniam, S/o Thangamuthu
2. V.Balasubramania Iyer
3. K.Radhamani, W/o Kamakshisundara Deekshatar
4. S.Rajammal, W/o S.Srinivasa Iyer
5. R.Rukmani, W/o Rajagopal

.. Respondents in S.A.No.968 of 1997

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1. Kedara Mudaliar, S/o T.K.Sankaralinga Mudaliar
2. M.Pachiyyam, S/o Marimuthu
3. Sevandalingam, S/o Marimuthu
4. M.Rasayanna, S/o Marimuthu

.. Respondents in S.A.No.969 of 1997

1. Ganesan, S/o Thangarasu Muthirayar
2. Rajaram Naidu

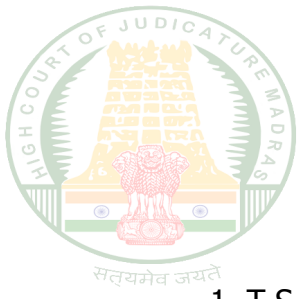
.. Respondents in S.A.No.970 of 1997

1. Subbaiyan, S/o Thangaiyan
2. V.Balasubramania Iyyer
3. K.Radhamani, W/o Kamakshi Sundara Deekshatar
4. S.Rajammal, W/o Srinivasa Iyer
5. R.Rukmani, W/o Rajagopal

.. Respondents in S.A.No.971 of 1997

1. T.S.Kedara Mudaliar, S/o Sanakaralingam
2. Marimuthu, S/o Chinnaiyan

.. Respondents in S.A.No.972 of 1997



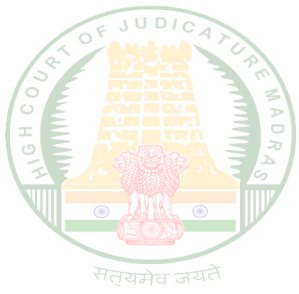
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1. T.S.Kedara Mudaliar, S/o Sankaralinga Mudaliar
2. Krishnammal, W/o Mottaiyandi
3. Manivel, S/o Mottaiyandi
4. Mavadiyan, S/o Mottaiyandi
5. Vaiyapuri, S/o Mottaiyandi
6. Ramu, S/o Mottaiyandi
7. Rajeswari, D/o Mottaiyandi
(Cause title accepted,
vide order dated 06.08.1998
in C.M.P.No.9980 of 1998 in
S.A.No.611 of 2002)

.. Respondents in S.A.No.611 of 2002

1. Muthukaruppan (died)
2. T.S.Kedara Mudaliar, S/o Sankaralinga Mudaliar
3. T.S.Palaniyandi Mudaliar S/o Sankaralingam Mudaliar
4. V.Balasubramania Iyer, S/o P.M.Venkatrama Iyer
5. Radhamani, W/o Kamashisundara Dikshadar
6. Rajammal, W/o Srinivasa Iyer
7. R.Rukmani, W/o Rajagopal
8. M.Periyanan, S/o Late Muthukaruppan
(Eighth respondent impleaded,
vide, Court order dated 01.03.2016
made in C.M.P.(MD).No.1 of 2014 in
S.A.SR.No.31893 of 1994)

.. Respondents in S.A.(MD).No.388 of 2017



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S.A.No.924 of 1998 filed under Section 100 CPC against the judgment and decree in A.S.No.335 of 1991, dated 30.10.1992 on the file of the Principal District Court, Tiruchirapalli, confirming the judgment and decree in O.S.No.120 of 1979, dated 30.04.1991 on the file of the Principal District Munsif Court, Tiruchirapalli.

S.A.No.968 of 1997 filed under Section 100 CPC against the judgment and decree dated 30.10.1992 in A.S.No.338 of 1991 on the file of the Principal District Court, Tiruchirapalli, confirming the judgment and decree in O.S.No.123 of 1979, dated 30.04.1991 on the file of the Principal District Munsif Court, Tiruchirapalli.

S.A.No.969 of 1997 filed under Section 100 CPC against the judgment and decree dated 30.10.1992 in A.S.No.331 of 1991 on the file of the Principal District Court, Tiruchirapalli, confirming the judgment and decree in O.S.No.116 of 1979, dated 30.04.1991 on the file of the Principal District Munsif Court, Tiruchirapalli.

S.A.No.970 of 1997 filed under Section 100 CPC against the judgment and decree dated 30.10.1992 in A.S.No.343 of 1991 on the file of the Principal District Court, Tiruchirapalli, confirming the judgment and decree in O.S.No.179 of 1979, dated 30.04.1991 on the file of the Principal District Munsif Court, Tiruchirapalli.

S.A.No.971 of 1997 filed under Section 100 CPC against the judgment and decree dated 30.10.1992 in A.S.No.330 of 1991 on the file of the Principal District Court, Tiruchirapalli, confirming the judgment and decree in O.S.No.115 of 1979, dated 30.04.1991 on the file of the Principal District Munsif Court, Tiruchirapalli.

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S.A.No.972 of 1997 filed under Section 100 CPC against the judgment and decree dated 30.10.1992 in A.S.No.336 of 1991 on the file of the Principal District Court, Tiruchirapalli, confirming the judgment and decree in O.S.No.121 of 1979, dated 30.04.1991 on the file of the Principal District Munsif Court, Tiruchirapalli.

S.A.No.611 of 2002 filed under Section 100 CPC against the judgment and decree dated 30.10.1992 in A.S.No.329 of 1991 on the file of the Principal District Court, Tiruchirapalli, confirming the judgment and decree in O.S.No.114 of 1979, dated 30.04.1991 on the file of the Principal District Munsif Court, Tiruchirapalli.

S.A.(MD).No.388 of 2017 filed under Section 100 CPC against the judgment and decree dated 30.10.1992 in A.S.No.337 of 1991 on the file of the Principal District Court, Tiruchirapalli, confirming the judgment and decree in O.S.No.122 of 1979, dated 30.04.1991 on the file of the Principal District Munsif Court, Tiruchirapalli.

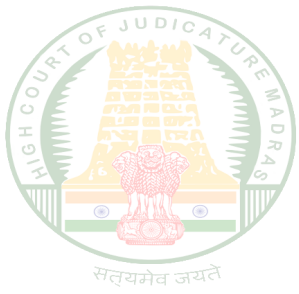
For appellant
in all the appeals : Mr.T.Antony Arulraj

For respondents
in all the appeals : No appearance

For R8 in S.A.No.388/2017 : M/s.J.Maria Roseline

COMMON JUDGMENT

The respective Second Appeals are filed as against the respective First Appeals and respective Original Suits, as detailed below :



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(i) S.A.No.924 of 1998 is filed against the judgment and decree in A.S.No.

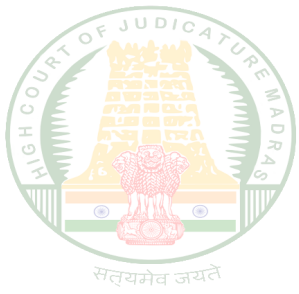
335 of 1991, dated 30.10.1992 on the file of the Principal District Court, Tiruchirapalli, confirming the judgment and decree in O.S.No.120 of 1979, dated 30.04.1991 on the file of the Principal District Munsif Court, Tiruchirapalli.

(ii) S.A.No.968 of 1997 is filed against the judgment and decree dated 30.10.1992 in A.S.No.338 of 1991 on the file of the Principal District Court, Tiruchirapalli, confirming the judgment and decree in O.S.No.123 of 1979, dated 30.04.1991 on the file of the Principal District Munsif Court, Tiruchirapalli.

(iii) S.A.No.969 of 1997 is filed against the judgment and decree dated 30.10.1992 in A.S.No.331 of 1991 on the file of the Principal District Court, Tiruchirapalli, confirming the judgment and decree in O.S.No.116 of 1979, dated 30.04.1991 on the file of the Principal District Munsif Court, Tiruchirapalli.

(iv) S.A.No.970 of 1997 is filed against the judgment and decree dated 30.10.1992 in A.S.No.343 of 1991 on the file of the Principal District Court, Tiruchirapalli, confirming the judgment and decree in O.S.No.179 of 1979, dated 30.04.1991 on the file of the Principal District Munsif Court, Tiruchirapalli.

(v) S.A.No.971 of 1997 is filed against the judgment and decree dated 30.10.1992 in A.S.No.330 of 1991 on the file of the Principal District Court, Tiruchirapalli, confirming the judgment and decree in O.S.No.115 of 1979, dated 30.04.1991 on the file of the Principal District Munsif Court, Tiruchirapalli.



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(vi) S.A.No.972 of 1997 is filed against the judgment and decree dated

30.10.1992 in A.S.No.336 of 1991 on the file of the Principal District Court, Tiruchirapalli, confirming the judgment and decree in O.S.No.121 of 1979, dated 30.04.1991 on the file of the Principal District Munsif Court, Tiruchirapalli.

(vii) S.A.No.611 of 2002 is filed against the judgment and decree dated

30.10.1992 in A.S.No.329 of 1991 on the file of the Principal District Court, Tiruchirapalli, confirming the judgment and decree in O.S.No.114 of 1979, dated 30.04.1991 on the file of the Principal District Munsif Court, Tiruchirapalli.

(viii) S.A.(MD).No.388 of 2017 is filed against the judgment and decree

dated 30.10.1992 in A.S.No.337 of 1991 on the file of the Principal District Court, Tiruchirapalli, confirming the judgment and decree in O.S.No.122 of 1979, dated 30.04.1991 on the file of the Principal District Munsif Court, Tiruchirapalli.

2. The case of the plaintiff (Temple) in O.S.No.120 of 1979 is as follows:

The suit property forms part of an Iruvaram Inam, for which the Inam rights were issued under Inam Title Deed No. 722. The plaintiff asserts that both the Melvaram right and the Kudivaram right in the property vest with the plaintiff. Under the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963, the Settlement Tahsildar is required to hold an enquiry prior to the grant of a Ryotwari Patta. In compliance with the said requirement, the



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Tahsildar conducted an enquiry under Section 11, examined the nature and history of the land, recorded evidence, and in Case No.54 of 1970, by order dated 16.05.1970, granted Ryotwari Patta in favour of the plaintiff. The land in dispute is a part of the said Inam. Since no appeal is filed against the said order, the said order is final and binding on the defendants. The first defendant is cultivating the land and in enjoyment and possession of the land in question. The defendants do not pay any rent or share to the plaintiff. The possession of the said land by the defendant is illegal. The plaintiff's lawyer has given notice to the first defendant on 12.12.1978 and the first defendant has given a reply notice to it. Since the defendants have no right to the said land in question, they are bound to hand over the possession of the land to the plaintiff. The second defendant has also claimed the land in question and had been added as a party to the suit. Hence, the suit has been filed for possession and for past and future profits.

3. The stand of the defendants in the written statement in O.S.No.120 of 1979 is as follows:

No notice of the settlement proceedings was given to the defendants. The order of the Settlement Tahsildar does not bind the defendants when the defendants are not parties to the proceedings. Mere grant of patta does not



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confer title on the plaintiff. It is true that the first defendant is in possession and enjoyment of the suit land. No amount was paid to the plaintiff, as the plaintiff had no entitlement to the suit property. Instead the amount was paid to the second defendant, who was lessor. For several decades, the suit land has been held by the father of the defendants, having been allotted to him in a family partition from the ancestral properties of the second defendant. Upon his death in 1942, the second defendant and his brothers continued to remain in uninterrupted and exclusive possession of the suit property, thereby perfecting their title by adverse possession. Hence, the suit is liable to be dismissed.

4. The suit was filed by the plaintiff in O.S.No.123 of 1979, stating as follows:

The suit land was granted to the plaintiff as an Iruvaram Inam, conferring upon them both Melvaram and Kudivaram rights. Under the Tamil Nadu Inam Abolition Act, 1963 (Act 30 of 1963), an inquiry regarding the nature and history of the land was conducted by the Settlement Tahsildar under Section 11. After taking evidence, a Ryotwari Patta was issued in favour of the plaintiff on 16.05.1970 in Case No.54 of 1970. The suit land forms part of the said grant. As no appeal was preferred against the said order, it has attained finality and is binding on the defendants. The first defendant is cultivating and is in possession



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of the suit land. The plaintiff is not receiving any rent or share from the temple, and the defendants' possession is unlawful. On 19.12.1968, a notice was issued to the first defendant through the plaintiff's counsel, and the first defendant sent a reply notice. Since the second defendant is deceased, defendants 3 to 6 have been impleaded as his legal heirs. As the defendants have no right or title over the suit land, they are bound to hand over possession to the plaintiff. The allegation that the defendants have perfected title by adverse possession is specifically denied. Accordingly, the present suit has been filed for recovery of possession and for past and future profits.

5. The defendant in O.S.No.123 of 1979, has filed written statement stating as under:

On the basis of the Patta issued by the Settlement Tahsildar under Act 30 of 1963, the plaintiff is not entitled to file the present suit. The court fee paid is incorrect. The persons in possession of the property are entitled to the benefits of Act 22 of 1975 and therefore cannot be evicted in law. If the plaintiff intended to take possession of the land pursuant to the Patta granted under Act 30 of 1963, he ought to have followed the procedure prescribed under the said Act. Further, if an encroacher accepts in writing the order of the Sub-Settlement Tahsildar and applies for transfer of title, such an application must be treated

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only as an assignment. Since the plaintiff has not complied with the procedures under Act 30 of 1963, he cannot approach the Civil Court seeking eviction of the alleged encroachment. It is denied that the properties were ever conveyed to the plaintiff. The name of the original grantor, which is necessary to establish the nature of the grant, has not been mentioned in the plaintiff's pleadings. As stated in D.T.No.722, the plaintiff has no right to evict the defendants, and the ancestors of the defendants had been in possession of the suit lands from time immemorial, and the defendants have continued in such possession thereafter. There has also been a relinquishment between the plaintiff and the defendants, and both that relinquishment and the judgment in A.S.No.37 of 1839 are binding on the plaintiff. Accordingly, the defendants are not liable to pay any rent or instalments to the plaintiff. The plaintiff has no right to recover possession of the suit property, and therefore the suit is liable to be dismissed.

6. The suit in O.S.No.116 of 1979 has been filed by the Temple stating as follows:

The plaintiff's right over the suit land arises from an Iruvaram Inam. The grant was issued to the plaintiff under Document No.722, and the plaintiff is vested with both Melvaram and Kudivaram rights. An enquiry under Section 11 of the Tamil Nadu Inam Abolition Act, 1963 (Act 30 of 1963) was conducted by the



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Settlement Tahsildar regarding the grant of Ryotwari Patta and the nature and history of the lands. After recording evidence, the Settlement Tahsildar granted a Ryotwari Patta to the plaintiff on 16.05.1970 in Case No.54/70. The land in dispute forms part of the said grant. As no appeal was filed against the said order, it has become final and is binding on the defendants. The first defendant is cultivating the land and is in full possession of the suit property, but he is not paying any rent or instalment to the plaintiff-Temple. His possession is unlawful. The plaintiff issued a notice to the first defendant on 19.11.1978 through counsel, and the defendant sent a reply notice. It is denied that the District Court has no jurisdiction over the suit land, and it is also denied that the defendants, who are bound to surrender possession to the plaintiff, have perfected title by adverse possession. Therefore, the plaintiff is entitled to a decree as prayed for, including recovery of possession and past and future profits.

7. The defendants 1 and 3 to 5 in O.S.No.116 of 1979 have filed written statement stating as follows:

With respect to Items 1 and 3 to 5, the first defendant is in possession as a tenant under the second defendant, and the ancestors of the first defendant were also in possession as tenants under the ancestors of the second defendant. With respect to Item 2, the first defendant and his two brothers obtained a



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registered sale deed on 25.10.1953 from one Abdullah Ravuthar for a consideration of Rs.39,000/-, and in the subsequent family partition, this property was allotted to the first defendant. The first defendant has been enjoying the same as the absolute owner of the second item of the property. With regard to Items 1, 3, 4, and 5, the first defendant accepts the second defendant's counter-claim. No notice was issued to the first defendant in respect of the enquiry conducted by the Settlement Officer. In any event, neither the first defendant nor his ancestors have any permanent tenancy rights over the poramboke land, and therefore the plaintiff is not entitled to any relief. Hence, the suit is liable to be dismissed.

8. The second defendant in O.S.No.116 of 1979 had filed written statement stating as under:

The second defendant denies that the suit properties in dispute were ever allotted as Iruvaram properties or that they form part of any Iruvaram grant. The defendants and their ancestors have been in possession of the disputed lands for more than 100 years. They have been enjoying the benefits arising from these properties, and the relevant documents have also been filed. Against the order of the Settlement Tahsildar, an appeal in C.M.A.No.64 of 1977 was filed before the Trichy Anti-Cultural Tribunal, and the same was dismissed on 05.02.1978.

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Thereafter, a further case in S.T.No.280 of 1978 was filed before the Madras High Court, and it is stated to be pending. In such circumstances, it is incorrect to contend that the order of the Settlement Tahsildar has become final. After the proceedings before the Trichy Land Tribunal in A.S.No.37 of 1859, the ancestors of the defendants agreed to pay Rs.4 per year for nanjai land and Rs.1 per year for punjai land, and such payments were made until the year 1903. Thereafter, the plaintiffs filed O.S.No.50 of 1903 before the Srirangam Land Court/Tribunal, which was opposed by the defendants' father. A compromise was reached on 12.08.1903 and was accepted by both parties. Subsequent to this compromise, the plaintiff did not demand any amount from the defendants, nor did the defendants make any payment. The second defendant is, however, willing to pay the additional amount as per the arrangement recorded in A.S.No.37 of 1859. In the above circumstances, the second defendant prays that the suit be dismissed.

9. The Temple has also filed suit in O.S.No.114 of 1979, stating as follows:

The land in dispute forms part of an Iruvaram Inam covered under Title Deed No.722. The plaintiff is vested with both Melvaram and Kudivaram rights. Under Act 30 of 1963, the Settlement Tahsildar conducted a full enquiry under Section 11 regarding the nature and history of the land and the rights of the tenant. After completing the enquiry and recording evidence, the Settlement



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Tahsildar granted Ryotwari Patta in favour of the plaintiff on 16.05.1970 in Case No.54 of 1970. The suit land forms part of the lands covered under the said grant. As no appeal was preferred against the order of the Settlement Tahsildar, the said order has become final and is binding on the defendants. The first defendant is cultivating the land and is in possession, but he is not paying any rent or share to the plaintiff–Temple. His possession is illegal. The plaintiff issued a notice to the first defendant through his lawyer on 12.02.1978, and the first defendant sent a reply notice. Since the defendant has no right over the suit land, he is bound to hand over possession to the plaintiff. It is specifically denied that the defendant has acquired title by adverse possession. For these reasons, the present suit has been filed for recovery of possession and for past and future profits.

10. The defendant has filed written statement in O.S.No.114 of 1979 stating as under:

The Court has no jurisdiction to entertain the suit. The order of the Settlement Officer is not binding on the defendant. The suit property is in the exclusive possession of the defendant. The plaintiff is not entitled to claim rent or share from the defendant, and the description of the property in the plaint is incorrect. Survey No.121 is an extensive land measuring 1 acre and 50 cents and

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is being cultivated by five or more persons. The defendant has acquired 0.42 cents in Survey No.121/4, and his brother has acquired 0.43 cents in the same survey, under a document dated 09.06.1951, and they have been cultivating the same as absolute owners. The plaintiff has not specified in the plaint which particular portion is claimed as the suit property, and therefore, the plaintiff is not entitled to recovery of possession or to claim past or interim profits. The suit is not maintainable in law, and accordingly, it is liable to be dismissed.

11. The plaintiff-Temple has filed suit in O.S.No.115 of 1979 stating as under:

The land in dispute is an Iruvaaram Inam, granted to the plaintiff under Inam Title Deed No.722. The plaintiff is entitled to both the Melvaram and Kudivaram rights pursuant to the provisions of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 (Act 30 of 1963). An enquiry was conducted by the Settlement Tahsildar under Section 11 regarding the nature, character, and title of the land. Upon considering the evidence, a Ryotwari Patta was granted to the plaintiff on 15.05.1970 in respect of the suit land, which forms part of the above Inam Title Deed. Since no appeal was preferred against the said order, it has attained finality and is binding on the defendants. The first defendant is cultivating the land and is in full possession



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thereof. The defendant has not paid any rent or share to the plaintiff–Temple, and such possession is unlawful. The plaintiff issued a legal notice to the first defendant on 19.12.1978, and the first defendant sent a reply notice. As the defendants have no right, title, or interest over the suit property, they are bound to surrender possession to the plaintiff. It is specifically denied that the defendant has acquired title by adverse possession. Accordingly, the present suit has been filed seeking recovery of possession and for past and future mesne profits.

12. The defendants have filed written statement in O.S.No.115 of 1979 stating as follows:

On the basis of the Patta issued by the Settlement Tahsildar under Act 30 of 1963, the plaintiff is not entitled to file the present suit. The court fee paid is incorrect. The persons in possession of the property are entitled to the benefits of Act 22 of 1975 and therefore cannot be evicted in law. If the plaintiff intended to take possession of the land pursuant to the Patta granted under Act 30 of 1963, he ought to have followed the procedure prescribed under the said Act. Further, if an encroacher accepts in writing the order of the Sub-Settlement Tahsildar and applies for transfer of title, such an application must be treated only as an assignment. Since the plaintiff has not complied with the procedures



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under Act 30 of 1963, he cannot approach the Civil Court seeking eviction of the alleged encroachment. It is denied that the properties were ever conveyed to the plaintiff. The name of the original grantor, which is necessary to establish the nature of the grant, has not been mentioned in the plaintiff's pleadings. As stated in D.T.No.722, the plaintiff has no right to evict the defendants, and the ancestors of the defendants had been in possession of the suit lands from time immemorial, and the defendants have continued in such possession thereafter. There has also been a relinquishment between the plaintiff and the defendants, and both that relinquishment and the judgment in A.S.No.37 of 1839 are binding on the plaintiff. Accordingly, the defendants are not liable to pay any rent or instalments to the plaintiff. The plaintiff has no right to recover possession of the suit property, and therefore the suit is liable to be dismissed.

13. The suit in O.S.No.179 of 1979 has been filed by the Temple on the following averments in the plaint:

The land in dispute is an Iruvaaram Inam, granted to the plaintiff under Inam Title Deed No.722. The plaintiff is entitled to both the Melvaram and Kudivaram rights pursuant to the provisions of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 (Act 30 of 1963). An enquiry was conducted by the Settlement Tahsildar under Section 11 regarding the

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nature, character, and title of the land. Upon considering the evidence, a Ryotwari Patta was granted to the plaintiff on 16.05.1970 in respect of the suit land, which forms part of the above Inam Title Deed. Since no appeal was preferred against the said order, it has attained finality and is binding on the defendants. The first defendant is cultivating the land and is in full possession thereof. The defendant has not paid any rent or share to the plaintiff–Temple, and such possession is unlawful. The plaintiff issued a legal notice to the first defendant on 19.12.1978, and the first defendant sent a reply notice. As the defendant has no right, title, or interest over the suit property, he is bound to surrender possession to the plaintiff. It is specifically denied that the defendant has acquired title by adverse possession. Accordingly, the present suit has been filed seeking recovery of possession and for past and future mesne profits.

14. The second defendant(s) had filed written statement in O.S.No.179 of 1979 stating as follows:

On the basis of the Patta issued by the Settlement Tahsildar under Act 30 of 1963, the plaintiff is not entitled to file the present suit. The court fee paid is incorrect. The persons in possession of the property are entitled to the benefits of Act 22 of 1975 and therefore cannot be evicted in law. If the plaintiff intended to take possession of the land pursuant to the Patta granted under Act 30 of



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1963, he ought to have followed the procedure prescribed under the said Act.

Further, if an encroacher accepts in writing the order of the Sub-Settlement Tahsildar and applies for transfer of title, such an application must be treated only as an assignment. Since the plaintiff has not complied with the procedures under Act 30 of 1963, he cannot approach the Civil Court seeking eviction of the alleged encroachment. It is denied that the properties were ever conveyed to the plaintiff. The name of the original grantor, which is necessary to establish the nature of the grant, has not been mentioned in the plaintiff's pleadings. As stated in D.T.No.722, the plaintiff has no right to evict the defendants, and the ancestors of the defendants had been in possession of the suit lands from time immemorial, and the defendants have continued in such possession thereafter. There has also been a relinquishment between the plaintiff and the defendants, and both that relinquishment and the judgment in A.S.No.37 of 1839 are binding on the plaintiff. Accordingly, the defendants are not liable to pay any rent or instalments to the plaintiff. The plaintiff has no right to recover possession of the suit property, and therefore the suit is liable to be dismissed.

15. The plaintiff-Temple has filed O.S.No.121 of 1979 pleading as follows:

The land in dispute is an Iruvaaram Inam, granted to the plaintiff under Inam Title Deed No.722. The plaintiff is entitled to both the Melvaram and

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Kudivaram rights pursuant to the provisions of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 (Act 30 of 1963). An enquiry was conducted by the Settlement Tahsildar under Section 11 regarding the nature, character, and title of the land. Upon considering the evidence, a Ryotwari Patta was granted to the plaintiff on 16.05.1970 in respect of the suit land, which forms part of the above Inam Title Deed. Since no appeal was preferred against the said order, it has attained finality and is binding on the defendants. The first defendant is cultivating the land and is in full possession thereof. The defendant has not paid any rent or share to the plaintiff–Temple, and such possession is unlawful. The plaintiff issued a legal notice to the first defendant on 19.09.1978, and the first defendant sent a reply notice on 11.10.1978. As the defendant has no right, title, or interest over the suit property, he is bound to surrender possession to the plaintiff. It is specifically denied that the defendant has acquired title by adverse possession. Accordingly, the present suit has been filed seeking recovery of possession and for past and future mesne profits.

16. The second defendant has filed written statement in O.S.No.121 of 1979, stating as follows:

The second defendant is the owner of the suit schedule property. The



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extent of the property mentioned in the plaint is not correct. The first defendant is a tenant under the second defendant. The first defendant had taken on lease Plot No.104 measuring 35 cents and an additional extent of 0.5 cents. The second defendant denies that the suit properties were ever allotted as Iruvaram properties or that they form part of any Iruvaram grant. The defendants and their ancestors have been in continuous possession of the disputed lands for more than 100 years. They have been enjoying the benefits arising from these properties, and the relevant supporting documents have been produced. Against the order passed by the Settlement Tahsildar, an appeal in C.M.A.No.64 of 1977 was filed before the Trichy Anti-Cultural Tribunal, and the appeal was dismissed on 05.02.1978. Thereafter, further proceedings in S.T.No.280 of 1978 were filed before the Madras High Court, and the same is stated to be pending. In these circumstances, it is incorrect to contend that the order of the Settlement Tahsildar has become final. After the proceedings before the Trichy Land Tribunal in A.S.No.37 of 1859, the ancestors of the defendants agreed to pay Rs. 4 per year for nanjai land and Rs.1 per year for punjai land, and such payments were made until 1903. Subsequently, the plaintiffs filed O.S.No.50 of 1903 before the Srirangam Land Court/Tribunal, which was opposed by the father of the defendants. A compromise was entered into on 12.08.1903 and was accepted by both parties. After the said compromise, the plaintiff did not demand

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any payment from the defendants, nor did the defendants make any payment.

However, the second defendant is willing to pay the additional amounts as per the arrangement recorded in A.S.No.37 of 1859. In these circumstances, the second defendant prays that the suit be dismissed.

17. The plaintiff has filed O.S.No.122 of 1979 stating as below:

The land in dispute is an Iruvaaram Inam, granted to the plaintiff under Inam Title Deed No.722. The plaintiff is entitled to both the Melvaram and Kudivaram rights pursuant to the provisions of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 (Act 30 of 1963). An enquiry was conducted by the Settlement Tahsildar under Section 11 regarding the nature, character, and title of the land. Upon considering the evidence, a Ryotwari Patta was granted to the plaintiff on 16.05.1970 in respect of the suit land, which forms part of the above Inam Title Deed. Since no appeal was preferred against the said order, it has attained finality and is binding on the defendants. The first defendant is cultivating the land and is in full possession thereof. The defendant has not paid any rent or share to the plaintiff–Temple, and such possession is unlawful. The plaintiff issued a legal notice to the first defendant on 19.12.1978, and the first defendant sent a reply notice. Since the second defendant is deceased, defendants 3 to 6 have been impleaded as his

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legal heirs. As the defendants have no right or title over the suit land, they are bound to hand over possession to the plaintiff. The allegation that the defendants have perfected title by adverse possession is specifically denied. Accordingly, the present suit has been filed for recovery of possession and for past and future profits.

18. The first defendant has filed written statement in O.S.No.122 of 1979 stating as under:

The plaintiff has no right to file the present suit on the basis of the Patta granted by the Settlement Tahsildar under Act 30 of 1963. The court fee paid is also incorrect. The persons in possession of the property are entitled to the benefits of Act 22 of 1975 and, therefore, cannot be evicted in law. If the plaintiff intended to take possession of the land pursuant to the Patta granted under Act 30 of 1963, he ought to have followed the procedure prescribed under the said Act. Further, if an encroacher accepts in writing the order of the Sub-Settlement Tahsildar and applies for transfer of title, such an application can only be treated as an assignment. Since the plaintiff has not complied with the procedures contemplated under Act 30 of 1963, he cannot invoke the jurisdiction of the Civil Court to seek eviction of the alleged encroachment. It is denied that the properties are iruvaaram lands, and it is further denied that the properties

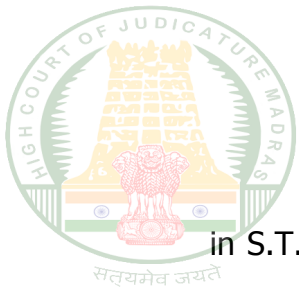


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were conveyed to the plaintiff. The name of the original grantor, which is essential to establish the nature of the grant, has not been mentioned in the plaintiff's pleadings. As stated in D.T.No.722, the plaintiff has no right to evict the defendants. The ancestors of the defendants have been in possession of the suit lands from time immemorial, and the defendants have continued in possession thereafter. There has also been a relinquishment between the parties, and both that relinquishment and the judgment in A.S.No.37 of 1839 are binding on the plaintiff. Accordingly, the defendants are not liable to pay any rent or instalments to the plaintiff. The plaintiff has no right to recover possession of the suit property, and therefore, the suit is liable to be dismissed.

19. The second defendant has been filed written statement in O.S.No.122 of 1979 stating as follows:

It is denied that the land(s) in dispute form part of the Iruvaaram grant said to have been given to the plaintiff. The second defendant and his ancestors have been in possession and enjoyment of the land(s) in dispute for more than 110 years, and the documents evidencing the same have been filed. Against the order of the Settlement Tahsildar, an appeal was filed before the Inam Abolition Tribunal in C.M.A.No.64 of 1977 at Trichy, and the same was dismissed on 05.02.1978. Thereafter, a further appeal was filed before the Madras High Court

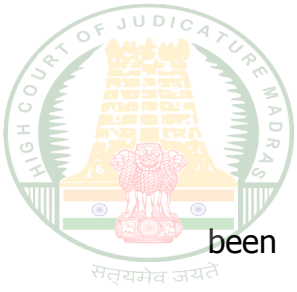


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in S.T.A.No.280 of 1978, which is stated to be pending. In these circumstances, it is incorrect to state that the order of the Settlement Tahsildar has attained finality. It is further stated that in Appeal No.37 of 1859 before the Trichy Civil Court, the defendants' ancestors agreed to pay rent at the rate of Rs.4/- per nanjai land and Rs.1/- per punjai land, and continued to pay such rent until 1903. Thereafter, the plaintiff-Dharma Kartha filed a suit before the Srirangam Land Court, which was opposed by the defendant's father, and the matter was later relinquished and amicably settled on 12.08.1903, which was accepted by both parties. Subsequently, the plaintiff did not demand any amount from the defendants, and the defendants also did not pay rent. The defendants, however, are willing to pay the rent as per the arrangement made in Appeal No.37 of 1859. In view of the above, the suit is liable to be dismissed.

20. The third defendant in O.S.No.122 of 1979 has filed written statement, stating as follows:

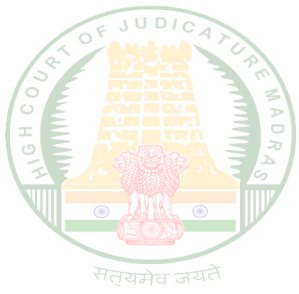
The property details stated in the suit regarding the survey number(s) are incorrect. There was a partition arrangement between the defendants. As per the registered deed dated 05.10.1952, the second defendant is the owner of all extents other than the survey numbers mentioned therein. The plaintiff is not in possession and has no right over the suit property(ies). The suit property has



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been in the possession of the defendants' ancestors from time immemorial, before it was given to the plaintiff. A relinquishment was made between the plaintiff and the defendant(s), which was accepted by both parties and has continued till the date of filing of the suit. The defendant(s) have acquired rights over the suit property since before 1859. The plaintiff's claim is barred by res judicata and adverse possession. Hence, the suit is liable to be dismissed.

21. After framing the issues, on the side of the plaintiff-Temple, one Narayanasamy was examined as P.W.1 and 67 documents were marked as Exs.A1 to A67. On the side of the defendants, 16 witnesses were examined as D.W.1 to D.W.16 and 131 documents were marked as Exs. B1 to B131. After analysing the pleadings, evidence, and submissions of the parties, the learned District Munsif, Tiruchirappalli, dismissed the suit on 30.04.1991. Challenging the said judgment and decree, the appellant-Temple preferred appeals before the learned Principal District Court, Tiruchirappalli. By a common judgment and decree dated 30.10.1992, the first appellate Court dismissed the appeals and confirmed the common judgment and decree of the trial Court. Aggrieved by the said concurrent findings, the Temple has now filed the present Second Appeals.

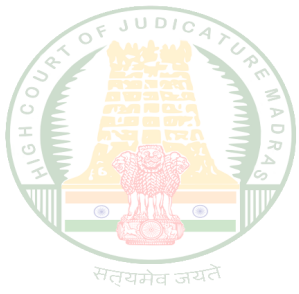


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22. Learned counsel for the appellant would submit that the appellant

Temple instituted twenty-two suits seeking recovery of possession of the suit lands together with present and future mesne profits. According to the appellant, the suit properties are Iruvaram lands originally granted in favour of the Temple, and both melvaram and kudivaram rights vest absolutely with the Temple. The title of the Temple is established through Inam Title Deed No.722, which has been marked as Ex.A52. It is further submitted that, under Section 8 of the Tamil Nadu Inams (Abolition and Conversion into Ryotwari) Act, 1963, the Settlement Tahsildar granted Ryotwari patta in favour of the Temple after following due procedure. Though the said grant was challenged in C.M.A.No.64 of 1977 by one Kethara Muthaliar, the remand that followed ultimately resulted in the re-grant of patta on 23.05.1977, as evidenced by Exs.A2 and A3. The subsequent challenges were dismissed on 05.01.1978, as seen from Ex.A4. The further appeal in S.T.A.No.280 of 1978 before the Division Bench of this Court was also dismissed on 28.06.1988, as evidenced by Ex.B1. Though liberty was reserved to the aggrieved party to approach the competent civil court, none of the defendants or their predecessors pursued such remedy. Learned counsel would therefore contend that, in view of Section 46 of Act 30 of 1963, the orders granting Ryotwari patta have attained finality and operate as title documents in favour of the Temple.

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23. Learned counsel would also submit that, since the defendants failed to pay any rent, the Temple issued a legal notice and consequently instituted the present suits. In their written statements, the defendants relied on O.S.No.50 of 1903, wherein the then Trustees of the Temple had filed a suit which ended in a compromise. As per the compromise, melvaram remained with the Temple while kudivaram was allowed to be enjoyed by the defendants' predecessor with an obligation to pay a fixed rent. Learned counsel would emphasise that, even according to the defendants' own pleadings, they were in possession as tenants and admit that rent was not paid thereafter. Once tenancy is admitted, the defendants cannot dispute the Temple's title nor can they claim adverse possession against Temple property unless clear evidence of surrender of tenancy and commencement of hostile possession is shown, which is absent.

24. Learned counsel would further submit that both the Courts below dismissed the suits on the ground that a suit for recovery of possession without a prayer for declaration would not lie when title is disputed. According to the appellant, this reasoning is erroneous. The title of the Temple had already been adjudicated, affirmed, and attained finality under Act 30 of 1963, and no civil suit was filed to question the same. Therefore, there was no necessity for the Temple to seek a separate declaratory relief. Learned counsel contends that the Courts

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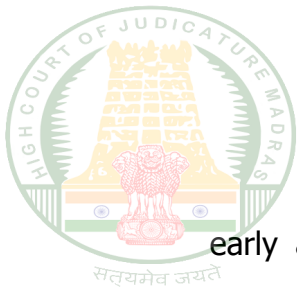
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below also erred in observing that patta alone had been produced as title. The Temple produced not only the Ryotwari patta but also the Inam Title Deed, the orders passed under the Act, and the records relating to the earlier suit of 1903, all of which cumulatively establish the Temple's title beyond doubt.

25. Learned counsel would add that even the compromise in the earlier suit of 1903, as relied upon by the defendants, does not dilute the Temple's ownership. If at all, it strengthens the position of the Temple, because the predecessor of the defendants expressly agreed to pay rent to the Temple. A tenant who acknowledges the landlord's title cannot turn around after decades and set up a claim of ownership or adverse possession. Hence, learned counsel submits that, in the light of the above facts and legal position, the appellant prays that the findings of the trial Court and the first appellate Court be set aside and that the Second Appeals be allowed.

26. A perusal of the records would show that the respondents have not appeared before this Court for several occasions. Though the matters were repeatedly listed for final hearing, there was no representation on behalf of the respondents. Even after granting several opportunities, neither the respondents nor any counsel entered appearance. It is seen that the suit was instituted as

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early as in the year 1979 and came to be dismissed by the learned District Munsif, Tiruchirappalli, by judgment dated 30.04.1991. The appeals filed by the appellant Temple were also dismissed by the learned Principal District Judge, Tiruchirappalli, by common judgment dated 30.10.1992. The present Second Appeals were thereafter filed in the year 1998. In view of the continued absence of the respondents and considering the long pendency of the matter, this Court proceeds to hear the Second Appeals on merits and to pass the following order.

27. While admitting the following Second Appeals, this Court has formulated the following substantial questions of law:-

S.A.No.924 of 1998

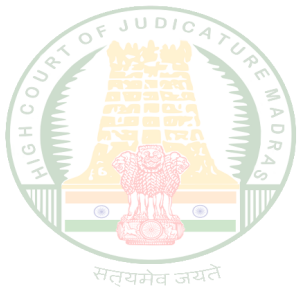
(i) Whether the lower Court is right in holding that the civil Court has got jurisdiction to go into the question of title in spite of grant of patta under Act 30 of 1963 in favour of the Temple?

(ii) Has the lower Court committed an error in not advertng to the latest decision of the Supreme Court in 1991 SCC (2) supp. 228, which has laid down the law that the grant of patta under the Abolition Act shall be final as regards question of title?

(iii) Whether the defendants who claim to be assignee from defendants in O.S.No.50 of 1903 can deny the title of the Temple and whether they are estopped under Section 116 of the Evidence Act?

(iv) Whether the defendants can claim benefits of cultivating tenancy rights as they have not proved contribution of physical labour, nor, proved, tenancy, nor they claim to be such tenants under cultivating tenants; and

(v) Whether the lower Court is right in dismissing the suit



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on the ground that it is not maintainable because of absence of prayer for declaration of title while it is admitted that the plaintiff had title at the point of time and that, it only lost it subsequently?

S.A.No.968 of 972 of 1997

(i) Has the lower court committed an error in not advertng to the latest decision of the Supreme Court in 1991 SCC 2 Supp. 228 which has laid down the law that the grant of patta under the Inam Abolition Act shall be final as regards question of title?

(ii) Can the lower Court come to the conclusion that the temple was granted Melwaram alone when the Authorities under the Act have decided that it was for both the warams as Sections 46 and 64A of Act 30 of 1963 would be a bar to come to such a conclusion?

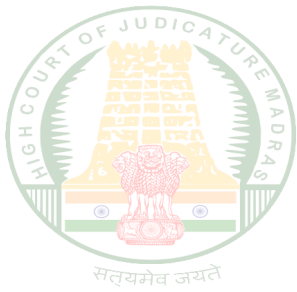
(iii) Whether the defendants who claim to be assigness from defendants in O.S.No.50 of 1903 can deny the title of the Temple and whether hey are estopped under Section 116 of the Evidence Act?

(iv) Whether the defendants can claim adverse possession when they admit that what was granted in the compromise decree in O.S.No.50 of 1903 was only of tenancy be it permanent and whether any amount of unilateral declaration by alienation or otherwise can convert their possession into adverse?

(v) Whether the defendants can continue to hold the properties in spite of their admitting that their predecessor in interest have long back stopped doing Thirumanjana to the deity and would their admission revert the land to the temple once the condition for the grant is not fulfilled whatever may be the length of time?

(vi) Whether the defendants can claim benefits of cultivating tenancy rights as they have not proved contribution of physical labour, nor proved tenancy nor they claim to be such tenants under cultivating tenants?

(vii) Whether the lower Court is right in dismissing the suit on the ground that it is not sustainable because of absence of prayer for declaration of title while it is admitted that plaintiff had title at the point of time and that it only lost it subsequently?



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S.A.No.611 of 2002

(i) Has the lower court committed an error in not advertng to the latest decision of the Supreme Court in 1991 SCC 2 Supp. 228 which has laid down the law that the grant of patta under the Inam Abolition Act shall be final as regards question of title?

(ii) Can the lower Court come to the conclusion that the temple was granted Melwaram alone when the Authorities under the Act have decided that it was for both the warams as Sections 46 and 64A of Act 30 of 1963 would be a bar to come to such a conclusion?

(iii) Whether the defendants who claim to be assigness from defendants in O.S.No.50 of 1903 can deny the title of the Temple and whether hey are estopped under Section 116 of the Evidence Act?

28. In S.A.No.388 of 2017, the following substantial questions of law were raised in the grounds of appeal:-

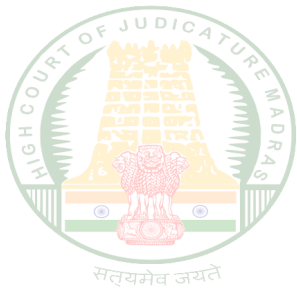
(i) Whether the lower Court is right in holding that the civil Court has jurisdiction to go into the question of title in spite of grant of patta under Act 30 of 1963 in favour of the Temple?

(ii) Has the lower Court committed an error in not advertng to the latest decision of the Supreme Court in 1991 SCC 2 Supp. 228 which has laid down the law that the grant of patta under the Abolition Act shall be final as regards question of title?

(iii) Can the lower Court come to the conclusion that the temple was granted Melwaram alone when the Authorities under the Act have decided that it was both the warams as Section 46 and 64A of Act 30 of 1963 would be a bar to come to such conclusion?

(iv) Whether the defendants who claim to be assignees from the defendants in O.S.No.50 of 1903 can deny the title of the temple and whether they are estopped under Section 116 of the Evidence Act?

(v) Whether the defendants can claim adverse possession when they admit that what was only a granted in the compromise



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decree in O.S.No.50 of 1903 was only of a tenancy be it permanent and whether any amount of unilateral declaration by alienating or otherwise can convert their possession into adverse?

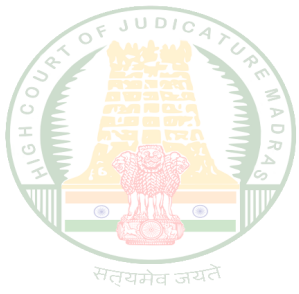
(vi) Whether the defendants can continue to hold the properties inspite of their admitting that their predecessors in interest have long back stopped doing Thirumanja to the diety and would their admission revert the land to the temple once the condition for the grant is not fulfilled - whatever may be length of time?

(vii) Whether the defendants can claim benefits of cultivating tenancy rights as they have not proved contribution of physical labour, nor proved tenancy nor they claim to be such tenants under cultivating tenants?

(viii) Whether the lower Court is right in dismissing the suit on the ground that it is not maintainable because of absence of prayer for declaration of title while it is admitted that plaintiff had title at the point of time and that it only lost it subsequently?

(ix) Whether the lower Court is right in relying on the decision in 1978 TLNJ 197 which arose out of a suit for permanent injunction and more so as there is no doubt as to identity of property in the case?

29. The subject matter of litigation is similar in all the appeals and therefore, they are taken up together for disposal. All the suits were tried together and the trial Court passed a common judgment. Challenging the same, the appellants filed appeals and the appeals were heard together and a common judgment was delivered. Against the said judgment, the present appeals have been filed. Since the present appeals also arise out of the common judgment and decree, this Court is passing a common judgment.



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30. The specific case of the appellant is that the schedule mentioned properties are iruvaram lands granted in favour of the Temple, both melvaram and kudivaram rights being vested with the Temple. The appellant Temple has filed a total of 22 suits for the relief of recovery of possession and for past and future mesne profits. The appellant Temple obtained Inam Title Deed No.722 and based on the said Inam Title Deed, Ryotwari patta was granted under the Tamil Nadu Inam Abolition and Conversion into Ryotwari Act, 30 of 1963, in favour of the Temple by the Settlement Tahsildar. The respondents in all the appeals are occupants of the above said inam lands. The parties had approached the Inam Settlement Tahsildar and thereafter the appellate Tribunal. The plaintiff Temple succeeded before the Settlement Tahsildar and also before the Appellate Tribunal. The order of the Appellate Tribunal attained finality. One of the parties filed Special Tribunal Appeal in S.T.A.No.280 of 1978 before this Court and the same was dismissed by order dated 28.06.1988, granting liberty to the appellants therein to approach the civil Court for remedy. None of the parties thereafter approached the civil Court for such remedy.

31. The Trustee of the Temple had filed O.S.No.50 of 1903 against some of the predecessors of the respondents. In that suit, a compromise was entered

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between the parties. As per the compromise, kudivaram right was vested with the defendants therein and melvaram right was given to the Temple. Further, the rent was fixed at Rs.4/- per kani nanja and Rs.2/- per kani punja land. The respondents and their predecessors accepted to pay the rent to the Temple, recognising the ownership of the Temple, and accepted that they had only possessory rights, to be enjoyed on payment of rent. Subsequently, they failed to pay the rent. Hence, a legal notice was issued, and thereafter the Temple filed the suit for recovery of possession, as the title deed (Title Deed No.728) stood in its name and the patta granted by the Settlement Tahsildar had been confirmed by the Appellate Tribunal.

32. As stated above, in the earlier suit of 1903, the respondents' predecessors had admitted the Temple's title and agreed to continue as tenants on payment of rent, thereby possessing only a right of occupation while the Temple remained the true owner. As they failed to pay the rent, the Temple was compelled to file the present suits seeking their eviction through due process of law and for recovery of mesne profits.

33. The specific case of the respondents, as seen from the records, is that the appellant-Temple has no right to file the suits on the basis of the land

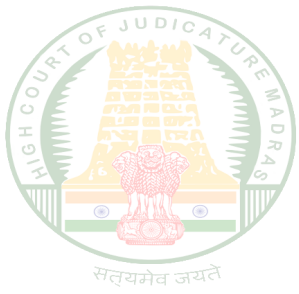
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grant made by the Settlement Tahsildar under Act 30 of 1963. The plaintiff has not paid proper court fee, since they are out of possession. Further, the appellant has not filed the suit for declaration but only filed suits for bare injunction, which are not maintainable. If patta land is granted under Act 30 of 1963, the procedure known to law must be followed. They can only apply for transfer of ownership of the land. Since the appellants admitted that the respondents are in possession, the appellants ought to have followed due process of law. If the appellants wanted to establish their title, they ought to have approached the civil Court with a suit for declaration of title and not for eviction/recovery of possession.

34. The respondents' further case is that the nature of gift/donation and the history of the donation in favour of the Temple has not been proved. Details such as who gave the gift, for what purpose, and when, were not furnished. Therefore, Inam Title Deed No.722 is not a document of title binding on the respondents. Admittedly, the respondents are in possession of the land for a long time. Therefore, the respondents are in possession over and above the statutory period and have prescribed title by adverse possession.



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35. A reading of the oral and documentary evidence, the earlier settlement proceedings, and the proceedings before this Court in S.T.A.No.280 of 1978 shows that the Inam Title Deed was granted to the Temple in D.T.No.722, which was marked as Ex.A2. Ryotwari patta was granted in the name of the Temple under Section 8 of the Tamil Nadu Inam Abolition and Conversion into Ryotwari Act, 30 of 1963, by the Settlement Tahsildar. The same was granted after following due process of law. Admittedly, the respondents' predecessors were occupants of the suit lands. One Kethara Mudaliar filed Civil Miscellaneous Petition No.64 of 1977 against the grant of Ryotwari patta. The same was allowed and the matter was remitted back to the Settlement Tahsildar. After remand, the Settlement Tahsildar again followed due process and granted patta in the name of the Temple. The same were marked as Exs.A2 and A3. The said order was challenged and dismissed, the dismissal order being marked as Ex.A4. Subsequently, revenue patta was granted to the appellant Temple, which attained finality. One of the parties filed S.T.A.No.280 of 1978 before the Division Bench of this Court, which was dismissed on 28.06.1988, confirming the grant of Ryotwari patta in favour of the Temple.

36. This Court, while dismissing the Special Tribunal Appeal, granted liberty to the aggrieved parties to approach the civil Court. It was observed that

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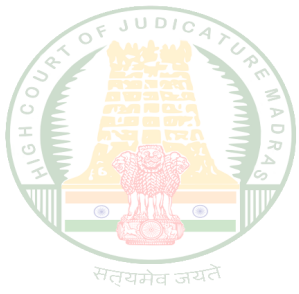
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aggrieved persons could very well approach the competent civil Court to establish their right. As on date, no suit has been filed by the respondents to establish their right. Therefore, the grant of Ryotwari patta in favour of the Temple became final as a document of title.

37. As the Ryotwari patta granted to the Temple has become final and conclusive. The Temple had earlier filed a suit in O.S.No.50 of 1903, in which a compromise was entered into between the appellant Temple and the predecessors of the respondents. In that suit, the predecessors of the respondents admitted the Temple's title and agreed to continue as tenants on payment of rent, thereby having only a right of occupation while the Temple remained the true owner. As they subsequently failed to pay the rent, the Temple was compelled to file the present suits seeking their eviction through due process of law and for recovery of mesne profits.

38. As per the compromise, the respondents' predecessors accepted only kudivaram rights, whereas melvaram rights vested with the Temple. They also admitted liability to pay rent, but later they did not pay rent. Therefore, the Temple subsequently filed the present suit. From the above proceedings, it is clear that the Temple is holding melvaram rights in the suit property and the respondents are only tenants.

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39. Normally, kudivaram rights are given in service inam lands. Ownership always vests with the inamdar, while the person rendering service enjoys the property as remuneration for service. Therefore, subsequently, in the compromise, the respondents' predecessors admitted the melvaram right of the Temple in the suit property and agreed to pay rent, thus continuing as tenants.

40. Having regard to the above, it becomes necessary to scrutinize whether the respondents, who are only tenants, were justified in raising a dispute regarding the Temple's title in the suit, and whether the lower court properly confined itself to the issues permissible in law. Under Section 116 of the Indian Evidence Act, a tenant is prohibited from denying the title of the landlord. In the earlier proceedings in S.T.A.No. 280 of 1978, as well as in the compromise entered into in O.S.No.50 of 1903, the predecessors of the respondents unequivocally admitted the Temple's melvaram right. Therefore, it stands established that the land belongs to the appellant Temple and that the respondents and their predecessors have always been tenants liable to pay rent.

41. It is also necessary to scrutinize the correctness of the finding of the courts below, which negated the plaintiff/appellant's claim for recovery of

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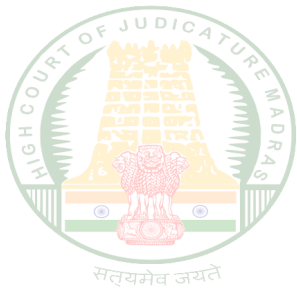
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possession on the ground that no declaratory relief had been sought. The plaintiff/appellant sought recovery of possession based on the admitted title of the Temple, without seeking a declaration; hence, the courts below held that such relief was not maintainable. As long as the respondents continue as tenants, they are legally barred from putting forth any claim contrary to the Temple's title. If they intend to dispute the Temple's ownership, they must first surrender possession and thereafter seek a declaration. Having accepted their tenancy and agreed to pay rent, they are estopped under Section 116 of the Indian Evidence Act from challenging the landlord's title. Moreover, no claim of adverse possession lies against the Temple, particularly when the respondents themselves have admitted the Temple's melvaram right.

42. In the eight second appeals, different substantial questions of law have been raised, yet several substantial questions of law are common in nature and have been grouped as follows:-

(1) Whether the lower Court is right in holding that the civil Court has got jurisdiction to go into the question of title in spite of grant of patta under Act 30 of 1963 in favour of the Temple (raised in S.A.No.924/1998 (i) and S.A.No. 388/2017 (i))

(2) Has the lower Court committed an error in not advertng to the latest decision of the Supreme Court in 1991 SCC (2) Supp. 228 which has laid down



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the law that the grant of patta under the Abolition Act / Inam Abolition Act shall be final as regards question of title (raised in S.A.No.924/1998 (ii), S.A.No.968/1997 (i), S.A.No.611/2002 (i), and S.A.No.388/2017 (ii))

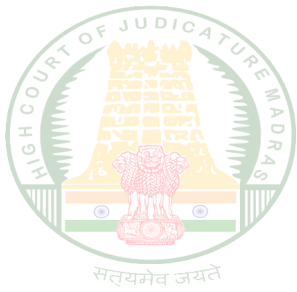
(3) Can the lower Court come to the conclusion that the temple was granted Melwaram alone when the Authorities under the Act have decided that it was for both the warams as Sections 46 and 64A of Act 30 of 1963 would be a bar to come to such a conclusion (raised in S.A.No.968/1997 (ii), S.A.No.611/2002 (ii), and S.A.No.388/2017 (iii))

(4) Whether the defendants who claim to be assignee/assignees from defendants in O.S.No.50 of 1903 can deny the title of the Temple and whether they are estopped under Section 116 of the Evidence Act (raised in S.A.No.924/1998 (iii), S.A.No.968/1997 (iii), S.A.No.611/2002 (iii), and S.A.No.388/2017 (iv))

(5) Whether the defendants can claim benefits of cultivating tenancy rights as they have not proved contribution of physical labour, nor proved tenancy, nor they claim to be such tenants under cultivating tenants (raised in S.A.No.924/1998 (iv), S.A.No.968/1997 (vi), and S.A.No.388/2017 (vi))

(6) Whether the lower Court is right in dismissing the suit on the ground that it is not maintainable because of absence of prayer for declaration of title while it is admitted that plaintiff had title at the point of time and that it only lost it subsequently (raised in S.A.No.924/1998 (v), S.A.No.968/1997 (vii), and S.A.No.388/2017 (vii))

(7) Whether the defendants can claim adverse possession when they admit that what was granted in the compromise decree in O.S.No.50 of 1903



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was only of tenancy be it permanent and whether any amount of unilateral declaration by alienation or otherwise can convert their possession into adverse (raised in S.A.No.968/1997 (iv) and S.A.No.388/2017 (iv))

(8) Whether the defendants can continue to hold the properties in spite of their admitting that their predecessors in interest have long back stopped doing Thirumanjana to the deity and would their admission revert the land to the temple once the condition for the grant is not fulfilled whatever may be the length of time (raised in S.A.No.968/1997 (v) and S.A.No.388/2017 (vi))

(9) Whether the lower Court is right in relying on the decision in 1978 TLNJ 197 which arose out of a suit for permanent injunction and more so as there is no doubt as to identity of property in the case (raised in S.A.No. 388/2017 (ix))

43. Substantial Questions of Law No.6 and 7:

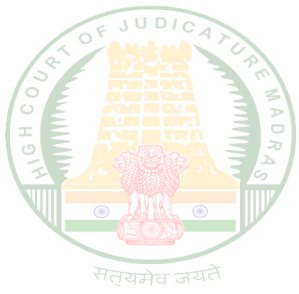
Issue No.(1) Whether the lower Court is right in holding that the civil Court has got jurisdiction to go into the question of title in spite of grant of patta under Act 30 of 1963 in favour of the Temple?

&

Issue No.(6) Whether the lower Court is right in dismissing the suit on the ground that it is not maintainable because of absence of prayer for declaration of title while it is admitted that plaintiff had title at the point of time and that it only lost it subsequently?

&

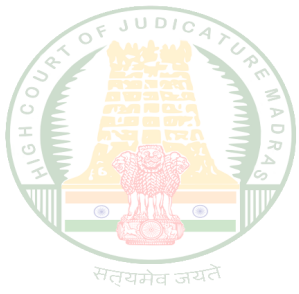
Issue No.(7) Whether the defendants can claim adverse possession when they admit that what was granted in the compromise decree in O.S.No.50 of 1903 was only of tenancy be it permanent and whether any amount of unilateral declaration by alienation or otherwise can convert their possession into adverse?



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43.1. The lands in question are admitted Iruvaram Inam lands that were originally granted to the appellant Temple, and the Temple's ownership is supported by Inam Title Deed No.722 (Ex.A52). After the abolition of minor inams under the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963, the Settlement Tahsildar conducted the statutory enquiry in Case No.54/1970 and granted ryotwari patta to the Temple. This grant was first challenged and remitted for a fresh enquiry in C.M.A.No.64 of 1977. After the remand, fresh pattas were again issued in favour of the Temple on 23.05.1977 (Exs.A2 and A3), and the subsequent inam appeal was dismissed on 05.01.1978 (Ex.A4). The matter was then taken before this Court in S.T.A.No.280 of 1978, where the statutory orders granting patta to the Temple were finally confirmed.

43.2. At no stage has any party succeeded in setting aside these statutory orders, and therefore the pattas have attained finality. Although liberty was given to the defendants to approach the civil court, none of them filed any civil suit to challenge or set aside the patta. Thus, the statutory determination of title in favour of the Temple was completed, confirmed, and left unchallenged in the civil forum.



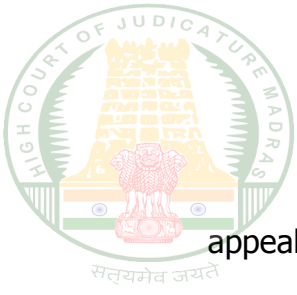
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43.3. Turning to the legal effect of these facts, the Act provides a complete and special procedure for deciding what rights survive after the abolition of the inam tenure. Under Sections 8 and 11, the Settlement Officer has the authority to enquire into and determine such rights, and Section 46 states that the orders passed under the Act are final. Therefore, when a patta is granted after a full statutory enquiry and that grant is confirmed in appeal, the patta is not a mere revenue entry. It reflects a statutory adjudication of title, and unless it is set aside by a competent civil court, it stands as the legal proof of ownership contemplated under the Act. Allowing a civil court to reopen the same question of ownership indirectly in a suit for possession would undermine the purpose of the inam-abolition framework and the finality that the statute expressly provides. The Courts below therefore erred in treating the issue of title as if no statutory enquiry had taken place.

43.4. This conclusion also answers the contention that the Temple's suits were defective because they did not contain a prayer for declaration of title. The general rule that a plaintiff must seek a declaration before seeking possession applies only where the title is doubtful or requires judicial determination. In the present case, the Temple's title was not doubtful; it was supported by the Inam Title Deed and by pattas granted after statutory enquiry and confirmed on

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appeal. Since no defendant ever filed a civil suit to challenge those pattas, the statutory adjudication of title stands undisturbed. In such circumstances, the Temple was not required to again seek a declaration. A suit for recovery of possession was an appropriate remedy to enforce rights that had already been legally recognised.

43.5. The defendants' plea of adverse possession also cannot succeed. Their own pleadings and the historical materials show that their possession traces back to the compromise decree in O.S.No.50 of 1903, under which they were permitted to enjoy kudivaram rights on payment of fixed rent while the Temple retained melvaram. Such possession is clearly permissive and derivative, arising from a recognised arrangement with the true owner. The law is well settled that possession which begins as permissive or as a tenancy cannot become adverse unless there is a clear, open and hostile assertion of ownership that is communicated to the true owner. Mere passage of time, failure to collect rent, or unilateral acts by the occupants cannot convert permissive possession into hostile possession. Moreover, when a statutory patta has been issued and confirmed in favour of the Temple, it reinforces that the Temple's title continues to subsist and cannot be lost merely by passage of time. Allowing a tenant or a person claiming through a tenant to acquire title against a temple merely by



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lapse of time would defeat the statutory scheme and nullify the protection given to settled ownership records.

43.6. It is also important to note that the 1903 compromise did not create any independent ownership in favour of the occupants. On the contrary, it clearly acknowledged the Temple's melvaram right and fixed the rent that the occupants were bound to pay to the Temple. This amounts to an express admission of the Temple's superior title and not a grant of absolute ownership to the defendants or their predecessors. Because of this, the defendants are barred by estoppel from now denying the Temple's title or arguing in a manner that contradicts the very compromise under which they originally derived their rights. In any case, private arrangements made in 1903 cannot override a statutory determination made many decades later under Act 30 of 1963, especially when that statutory determination has been upheld in appeal and allowed to attain finality.

43.7. Taking all these facts and legal principles together, it becomes clear that the courts below proceeded on a legally untenable approach. They wrongly reopened the question of title even though it had already been finally decided by the statutory authority and confirmed on appeal. They further erred in holding that the Temple's suits were not maintainable without a prayer for declaration,

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even though the Temple's title had already been conclusively recognised by the issuance and confirmation of the ryotwari patta. Finally, they accepted the defendants' plea of adverse possession even though the defendants' possession was permissive, derived from the compromise, and never, either in law or in fact, assumed the character of adverse possession. Nothing in the evidence supports a claim of adverse ownership.

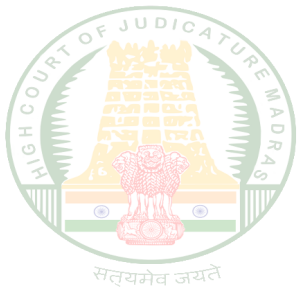
43.8. For all these reasons, it is clear that the civil court lacked jurisdiction to reopen the issue of title in the face of a final statutory patta; that the Temple was entitled to maintain the suit for recovery of possession without seeking a separate declaration; and that the defendants' plea of adverse possession is legally unsustainable. Accordingly, all the three substantial questions of law stand answered in favour of the appellant Temple.

44. Substantial Questions of Law Nos.5 and 8:

(5) Whether the defendants can claim benefits of cultivating tenancy rights as they have not proved contribution of physical labour, nor proved tenancy, nor they claim to be such tenants under cultivating tenants?

&

(8) Whether the defendants can continue to hold the properties in spite of their admitting that their predecessors in interest have long back stopped doing Thirumanjana to the deity and would their admission revert the land to the temple once the condition for the grant is not fulfilled whatever may be the length of time?

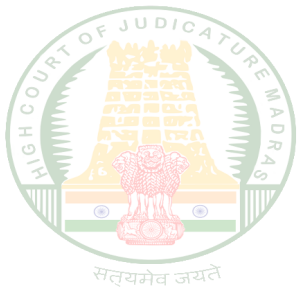


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44.1. As already stated, the defendants' occupation rests entirely upon the 1903 compromise, under which they were allowed to remain on the lands only in a permissive capacity and never as owners. In this situation, their claim to cultivating tenancy rights cannot stand. To be recognised as a cultivating tenant, proof of three essential elements is necessary: (i) that the person was lawfully inducted into possession by the landowner under a valid tenancy, (ii) that he is actually cultivating the land, either personally or through hired labour under his supervision, and (iii) that such cultivation is lawful and referable to the tenancy. The 1903 compromise merely permitted the defendants to continue in possession on payment of a fixed amount; Even as they have admitted in their written submissions, the defendants did not pay the fixed amount to the appellant Temple, and they have not produced any evidence to show that they or their predecessors personally cultivated the land. The burden of proving tenancy rests entirely on the person who claims its benefit, and the defendants have failed to discharge that burden. Further, since a statutory patta has already been issued in favour of the Temple and confirmed on appeal, and since the defendants have never filed a civil suit to set it aside, they cannot now claim cultivating tenancy rights that directly contradict that final statutory decision. The courts below were therefore not justified in treating them as cultivating tenants without any proper legal basis.

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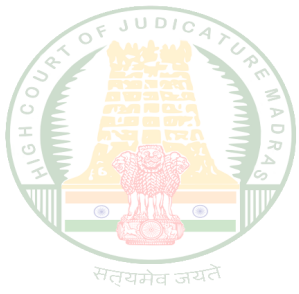
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44.2. Likewise, the defendants cannot claim any right to continue in the land after admitting that the Thirumanjanam service which their predecessors were required to perform had stopped long ago. When land is given to a person only on the condition that a particular service for the temple is performed, the possession remains conditional. Having stopped the service long ago, the defendants cannot rely on the old service arrangement to continue in possession, for that arrangement only permitted occupation while the service was performed and never conferred any independent or permanent ownership on them. Long possession or inaction by the temple does not change this legal character. A service-holder cannot become an owner merely because a long time has passed. The plaintiff, in his evidence, stated that the land was earlier given for carrying out the Thirumanjana; however, now the Temple itself is performing the work by engaging labourers. The defendants have also not proved any independent title, any lawful tenancy, or any adverse possession. With all these failures, they have no legal ground to resist the Temple's claim. For these reasons, both these substantial questions of law are answered in favour of the appellant Temple.

45. Substantial Questions of Law No.3:

Can the lower Court come to the conclusion that the temple was granted Melwaram alone when the Authorities under the Act have decided that it was for

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both the warams as Sections 46 and 64A of Act 30 of 1963 would be a bar to come to such a conclusion?

45.1. As already stated, the statutory proceedings under Act 30 of 1963 concluded with the grant of ryotwari patta in favour of the Temple, and those orders have long since attained finality. Once the statutory adjudication has reached finality, the patta operates as a document of title, and no civil court is permitted to reopen an issue that has already been conclusively settled under the statute, unless the proceedings are shown to be vitiated by fraud, misrepresentation, or collusion, as held by the Hon'ble Apex Court in ***Vatticherukuru Village Panchayat v. Nori Venkatarama Deekshithulu*** (*supra*) .

45.2. In addition to the statutory finality of the ryotwari patta, the earlier proceedings also support the Temple's claim. In O.S.No.50 of 1903, the Temple and the predecessors of the present defendants entered into a compromise. Under that compromise, the predecessors accepted only kudivaram rights, and they clearly admitted that the melvaram rights belonged to the Temple. They also agreed to pay a fixed rent to the Temple. This makes it clear that the defendants' predecessors were never owners of the land; they were only

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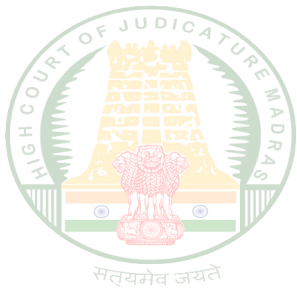
permitted to remain in possession on the basis of the Temple's superior title.

Their occupation was therefore permissive and dependent on the Temple's rights, and not independent ownership.

45.3. In inam lands, the Temple, as the inamdar, continues to be the owner, while the person performing the service is allowed to enjoy the land only as part of that service arrangement. When the 1903 compromise once again recognised the Temple's melvaram right and required the occupants to pay rent, it clearly affirmed the Temple's ownership and confirmed that the occupants were only tenants, not owners.

45.4. This also defeats their plea of adverse possession. A person who enters land as a tenant or permissive holder cannot claim adverse possession against the admitted owner unless he clearly rejects the owner's title and brings that rejection to the owner's knowledge. No such conduct is shown here. Instead, the defendants rely on the 1903 compromise and permissive occupation, which itself shows that their possession was never hostile. Moreover, adverse possession cannot be used against a temple where the origin of possession is permissive and where statutory title has already been confirmed under Act 30 of 1963.

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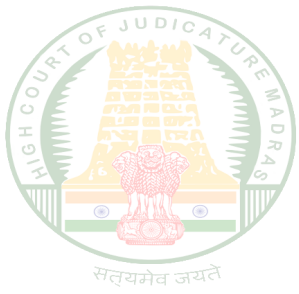
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45.5. In these circumstances, the position is clear. The courts below were not right in holding that the Temple had only melvaram rights when both the statutory findings and the earlier admissions show that the Temple holds complete title. Under Sections 46 and 64-A of Act 30 of 1963, the civil courts had no authority to reopen matters already finally settled by the statutory authorities. The respondents, being tenants under the admitted landlord, cannot dispute the Temple's title, nor can they claim cultivating tenancy or adverse possession.

45.6. For these reasons, the Temple is the rightful owner of the suit lands. The respondents are merely tenants and have no legal basis to challenge the Temple's title or continue in possession. Accordingly, this substantial question of law is answered in favour of the appellant.

46. Substantial Questions of Law No.4:

Whether the defendants who claim to be assignees from the defendants in O.S.No.50 of 1903 can deny the title of the temple and whether they are estopped under Section 116 of the Evidence Act?



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46.1. The defendants cannot deny the Temple's title because their own predecessors had already accepted it. In the compromise decree of O.S.No.50 of 1903, the predecessors of the present defendants clearly admitted that they held only kudivaram rights and that the melvaram rights and therefore ownership belonged to the Temple. Their possession was permitted only on that basis, and not as absolute owners. The present defendants, claiming only through them, cannot claim a better right than those who came before them.

46.2. Section 116 of the Indian Evidence Act makes this position even clearer. A tenant, or anyone who continues in possession through a tenant, is not allowed to dispute the title of the landlord while remaining in possession. The defendants and their predecessors remained in the land solely because they accepted the Temple as the owner. They never surrendered possession, nor did they assert any independent title before continuing their occupation. In such circumstances, the law does not permit them to challenge the Temple's ownership.

46.3. Thus, in view of their admitted origin of possession, the compromise of 1903, the statutory proceedings confirming the Temple's title, and the bar under Section 116 of the Evidence Act, the defendants are legally

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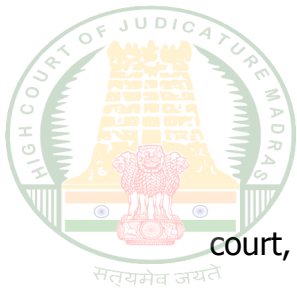
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estopped from questioning the Temple's title, and their claim cannot stand against the appellant Temple. Accordingly, this substantial question of law also answered in favour of the appellant.

47. Substantial Questions of Law No.2:

Has the lower Court committed an error in not advertng to the latest decision of the Supreme Court in 1991 SCC (2) Supp. 228 which has laid down the law that the grant of patta under the Abolition Act / Inam Abolition Act shall be final as regards question of title?

47.1. The courts below clearly erred by ignoring the binding precedent set by the Supreme Court in **Vatticherukuru Village Panchayat v. Nori Venkatarama Deekshithulu**, [1991 Supp (2) SCC 228 at page 256], which directly applies to this case. In that judgment, the Hon'ble Supreme Court held that the Inam Abolition Act is a self-contained and exclusive jurisdiction for determining rights to patta and that the decisions of the statutory authorities under the Act after enquiry and appeal are final, conclusive, and not open to re-examination by civil courts. The Hon'ble Supreme Court further observed that when a statute gives special authorities the exclusive power to decide who is entitled to a ryotwari patta and also provides appeals and revisions within the same statute, the orders passed under that statute cannot be reopened by a civil



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court, except in the rare cases of fraud, misrepresentation, or collusion. For

better appreciation, the relevant paragraphs of the judgment in **Vatticherukuru**

Village Panchayat v. Nori Venkatarama Deekshithulu, (*supra*) is extracted

hereunder:-

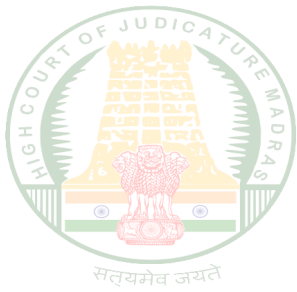
"25. In Dhulabhai v. State of M.P. [(1968) 3 SCR 662 : AIR 1969 SC 78 : (1968) 22 STC 416] another Constitution Bench reviewed the entire case law on the question of maintainability of civil suit and laid down seven propositions. Propositions 1 and 2 are relevant, which read thus : (SCR p. 682)

"(1) Where the statute gives a finality to the orders of the special tribunals the civil courts' jurisdiction must be held to be excluded if there is adequate remedy to do what the civil courts normally do in a suit. Such provision, however, does not exclude those cases where the provisions of the particular Act have not been complied with or the statutory tribunal has not acted in conformity with the fundamental principles of judicial procedure.

(2) Where there is an express bar of the jurisdiction of the court, an examination of the scheme of the particular Act to find the adequacy or the sufficiency of the remedies provided may be relevant but is not decisive to sustain the jurisdiction of the civil court.

Where there is no express exclusion the examination of the remedies and the scheme of the particular Act to find out the intendment becomes necessary and the result of the inquiry may be decisive. In the latter case it is necessary to see if the statute creates a special right or a liability and provides for the determination of the right or liability and further lays down that all questions about the said right and liability shall be determined by the tribunals so constituted, and whether remedies normally associated with actions in civil courts are prescribed by the said statute or not."

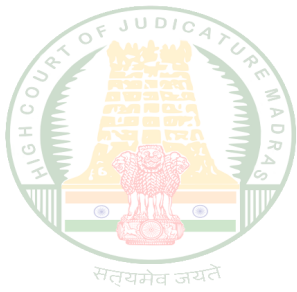
It was held therein that the civil suit was not maintainable to call in question of assessment made under the Madhya Bharat Sales Tax Act. In Hatt v. Sunder Singh [(1970) 2 SCC 841 : (1971) 2 SCR 163] the tenant had a declaratory relief before the authorities under Delhi Land Reforms Act that he was Bhoomidar. When it was challenged in the civil suit as not being binding, this Court held that the civil suit was not maintainable.



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26. In *Muddada Chayana v. Karnam Narayana* [(1979) 3 SCC 42 : (1979) 3 SCR 201] a case under Section 56(1)(c) of the Andhra Pradesh (Andhra Area) (Abolition and Conversion into Ryotwari) Act, 1948, it was held that the dispute as to who the lawful ryot in respect of any holding is, shall be decided by the Settlement Officer. Whether it is liable to be questioned in the civil court, Chinnappa Reddy, J., who had intimate knowledge as an advocate and the judge on the subject, reviewed the law and held that the Act is a self-contained code in which provision was also made for the adjudication of various types of disputes arising, after an estate was notified, by specially constituted tribunals. On the general principles it was held that the special tribunals constituted by the Act must necessarily be held to have exclusive jurisdiction to decide dispute entrusted by the statute to them for their adjudication. Dealing with the object of the Act it was held at p. 207 C — D that the Act intended to protect ryots and not to leave them in wilderness. When the Act provides machinery in Section 56(1)(c) to discover who the lawful ryot of a holding was, it was not for the court to denude the Act of all meaning and by confining the provision to the bounds of Sections 55 and 56(1)(a) and (b) on the ground of contextual interpretation. Interpretation of a statute, contextual or otherwise must further and not frustrate the object of the statute. It was held that the civil suit was not maintainable and approved the Full Bench judgment of five Judges of the High Court of Andhra Pradesh in *T. Munuswami Naidu v. R. Venkata Reddy* [AIR 1978 AP 200 (FB)] . The same view was reiterated in *O. Chenchulakshamma v. D. Subrahmanya Reddy* [(1980) 3 SCC 130 : (1980) 1 SCR 1006] and held that the order of the Additional Settlement Officer was final insofar as the dispute between the rival claimants to the ryotwari patta was concerned and not liable to be questioned in any court of law. In *A. Bodayya v. L. Ramaswamy* [1984 Supp SCC 391] , while reiterating the ratio in both the judgments, Desai, J. speaking for a bench of three Judges held that under Estate Abolition Act, who the lawful ryot was decided. Self-same question directly and substantially raised in the suit cannot be decided by the civil court as it has no jurisdiction to decide and deal with the same but Settlement Officer had the exclusive jurisdiction to decide and



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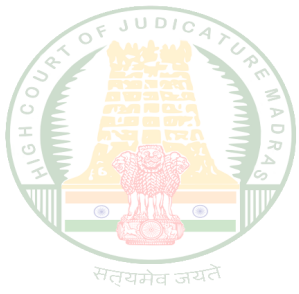
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deal with it. In Dec v. Bridges [(1831) 1 B & Ad 847, 859] the oft-quoted dictum of Lord Tenterden, C.J. reads that:

"where an act creates an obligation and enforces the performance in a specified manner, we take it to be a general rule that performance cannot be enforced in any other manner."

In Premier Automobiles Ltd. v. Kamlekar Shantaram Wadke [(1976) 1 SCC 496 : 1976 SCC (L&S) 445 : (1976) 1 SCR 427] , a bench of three Judges after reviewing the case law held that if a dispute was not industrial dispute, nor does it relate to enforcement of any right under the Industrial Disputes Act, the remedy lies only in the civil court. If the dispute arises out of the right or liability under the general common law and not under the Act, the jurisdiction of the civil court is always alternative, leaving it to the election of the suitor to choose his remedy for the relief which is competent to be granted in a particular remedy. If the dispute relates to the enforcement of a right or obligation of the Act, the only remedy available to the suitor is to get an application adjudicated under the Act. In that view, it was held that the civil suit was not maintainable.

27. In State of T.N. v. Ramalinga Samigal Madam [(1985) 4 SCC 10] , strongly relied on by Shri Kanta Rao, the question therein was whether the jurisdiction of the civil court was ousted to redetermine the nature of the land rendered by the Settlement Officer under Section 11 of the Estate Abolition Act, Tulzapurkar, J. speaking for the Division Bench proceeded on three fundamental postulates namely that the decision of the Settlement Authorities under Section 11 of the Act was for (I) 'revenue purposes', (SCC p. 22, para 12) "that is to say for fastening the liability on him to pay the assessment or other dues and to facilitate the recovery of such revenue from him by the government; and therefore any decision impliedly rendered on the aspect of nature or character of the land on that occasion will have to be regarded as incidental to and merely for the purpose of passing the order of granting or refusing to grant the patta and for no other purpose", (II) only revision against the order and not an appeal; and (III) that by Madras Amendment, Section 64-C was deleted. It was unfortunate

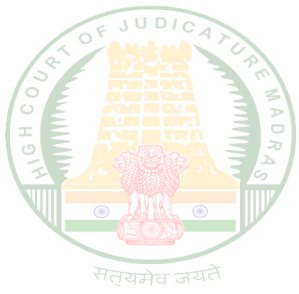


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that it was not brought to the notice of the court that the purpose of Estate Abolition Act was not solely for the purpose of collecting the revenue to the State. The Act has its birth from a long drawn struggle carried on by the ryots in Madras Presidency for permanent ryotwari settlement of tenures and grant of permanent occupancy rights and the Indian National Congress espoused their rights and passed resolution at Avadi Session to make a legislation in that regard. The recovery of revenue was only secondary. In Syamala Rac v. Radhakanthaswami Varu [(1984) 1 APLJ 113 : 1984 Andh LJ 286] , a Division Bench of the Andhra Pradesh High Court to which one of us (K. Ramaswamy, J.) was a member considered the historical background, the purpose of the Act and the scheme envisaged therein in extenso and held that the preamble of the Estate Abolition Act was to repeal the permanent settlements, the acquisition of the rights of the landholders in the estates and introduction of the ryotwari settlement therein; under Section 1(4) by issuance of the notification the pre-existing rights shall cease and determine; shall vest in the State free from all encumbrances and declared that all rights and interests created in particular over the State 'shall cease and determine as against the government' protected only dispossession of a person in possession of the ryoti land who was considered prima facie entitled to a ryotwari patta. Section 11 envisaged enquiry into "the nature of the land" and whether "ryotwari land immediately before the notified dates" be properly included or ought to have been properly included in the holding of the ryot. The enquiry under the Act was entrusted to the revenue authorities who have intimate knowledge of the nature of the lands and the entries in the revenue records of the holders, etc. Act created hierarchy of the tribunals, namely Assistant Settlement Officer; Settlement Officer; Director of Settlements and Board of Revenue; provided revisional powers to those authorities and ultimately the order is subject to the decision of the High Court under Article 226. In that view it was held that by necessary implication the jurisdiction of the civil court was ousted, the decision of Settlement Authorities under Section 11 was made final and no civil suit was maintainable. The legislature having made the Act to render economic justice to the ryots and excluded the dispute between landholders and the ryots covered under Sections 12 to 15 and the ryots inter se under Section 56(1)(c), from the

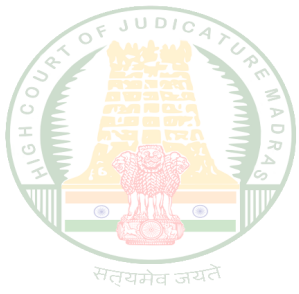


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jurisdiction of the civil court, it would not be the legislative intention to expose the ryots to costly unequal civil litigation with the State of the dispute under Section 11. It is not necessary in this case to broach further but suffice to state that unfortunately this historical perspective and the real purpose and proper scope and operation of Estate Abolition Act was not focused to the notice of the Court. In Jyotish Thakur v. Tarakant Jha [1963 Supp 1 SCR 13 : AIR 1963 SC 605] , Section 27 of Regulation III of 1872 provides that in respect of transfer of ryoti interest in contravention of the regulation revenue courts shall not take cognizance of such a transfer. It was contended that by necessary implication the civil suit was not maintainable. In that context this Court held that provisions therein were not intended to be exhaustive to bar the relief in a civil court. In Athmanathaswami Devasthanam v. K. Gopalaswami Aiyangar [(1964) 3 SCR 763 : AIR 1965 SC 338] the question was whether the civil suit to recover damages and for ejectment of the ryoti lands belonging to the temple was barred. The findings were that the lands were ryoti lands and that the tenant acquired the occupancy rights, but the lease was granted in excess of 5 years. It was contended that it was a transfer without permission of the Endowment Department. While upholding that the lands were ryoti lands and the tenant acquired occupancy rights, this Court disagreeing with the High Court, held that there was no transfer and that the tenant is liable to pay the arrears of rent and the suit was maintainable. In Sri Vedagiri Lakshmi Narasimha Swami Temple v. Induru Pattabhirami Reddy [(1967) 1 SCR 280 : AIR 1967 SC 781] , the contention raised was that Section 93 of the Madras Hindu Religious and Charitable Endowments Act, 1951 was a bar to maintain suit for rendition of accounts and recovery thereof against the ex-trustees. This Court repelled the contention and held that the suit for rendition of accounts was not expressly or by necessary implication barred the jurisdiction of the civil court under Section 93. In Raja Kandregula Srinivasa Jagannadha Rao Panthulu Bahadur Garu v. State of A.P. [(1969) 3 SCC 71 : (1970) 2 SCR 714] , it was conceded that the question whether Kalipatnam village is an inam estate was to be adjudicated before the tribunals appointed under the Rent Reduction Act. It was contended that the tribunals have no jurisdiction to decide the validity of the notification reducing the rent by operation of Section 8(1) thereof. It was held

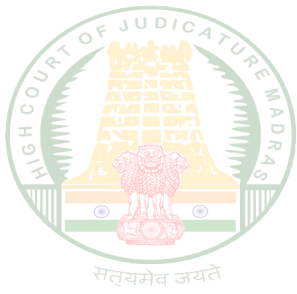


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that there was no statutory prohibition to determine the nature of the land contemplated by the Rent Reduction Act. Accordingly the suit was held to be maintainable. In Dr Rajendra Prakash Sharma v. Gyan Chandra [(1980) 4 SCC 364 : (1980) 3 SCR 207] , it was found that under Section 7 of the Administration of Evacuee Property Act, 1950, no proceedings were taken to declare the suit house as on evacuee property. No notification under sub-section (3) of Section 7 was published in the gazette. Under those circumstances it was held that Section 46 did not bar the civil suit. In Anne Besant National Girls High School v. Dy. Director of Public Instruction [(1983) 1 SCC 200 : 1983 SCC (L&S) 140] , this Court held that the civil court has jurisdiction to examine whether action or decision of an administrative authority was ultra vires the relevant rules of Grant-in-Aid Code and Rule 9(vii) was held to be ultra vires. Accordingly the suit was held to be maintainable. In Raja Ram Kumar Bhargava v. Union of India [(1988) 1 SCC 681 : 1988 SCC (Tax) 132 : (1988) 2 SCR 352] , two questions were raised, firstly the validity of the assessment and secondly recovery of the tax paid under Excess Profit Tax Act, 1940. On the first question it was held that the suit was not maintainable. On the second question without going into the technicalities of the maintainability of the suit, this Court granted the relief. In Pabbojan Tea Co. Ltd. v. Dy. Commissioner, Lakhimpur [(1968) 1 SCR 260 : AIR 1968 SC 271 : (1967) 2 LLJ 872] , the questions were whether the workmen were ordinary unskilled labour or skilled labour; whether the jurisdiction of the authorities under Section 20 of the Minimum Wages Act, 1948 was exclusive and whether the jurisdiction of the civil court was barred. This Court held that the authorities did not hold any inquiry nor received any evidence for determining that issue. No proper hearing was given to the parties to tender evidence. Section 20 is not a complete code as there was no provision for appeal or revision against the orders passed under Section 20(3). There was no further scrutiny by any higher authority against the imposition of penalty. The Act in terms does not bar the employers from instituting a suit. In those circumstances, it was held that the legislature did not intend to exclude the jurisdiction of the civil court. The ratio in K. Chintamani Dora v. G. Annamnaidu [(1974) 1 SCC 567 : (1974) 2 SCR 655] , also does not assist Gram Panchayat for the reason that the decree therein originally granted became final. Subsequently it was



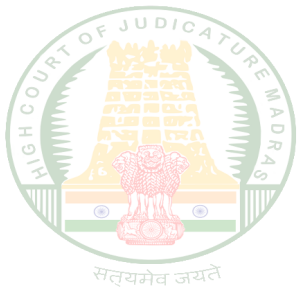
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sought to be reopened in a later suit. Under those circumstances the civil suit was held to be maintainable notwithstanding the provisions contained under the Estate Abolition Act.

28. Thus we have no hesitation to hold that the ratio in all these cases are clearly distinguishable and render little assistance to the Gram Panchayat. The scope, ambit and operation of the Inams Act was considered by P. Jaganmohan Reddy, J. (as he then was) in D.V. Raju v. B.G. Rao [(1961) 2 Andh WR 368 : AIR 1968 AP 220] , and held that the paramount object of the legislature was to protect the tenant in occupation and is sought to be achieved by making effective orders of eviction made by the civil court either in execution or otherwise. It further prohibits the institution of any suit or proceeding in a civil court under Section 14 to set aside or modify any decision of the Tehsildar, Collector or Revenue Court except where such decision has been obtained by misrepresentation, fraud or collusion. Section 15 enjoins that the provisions of the Act and orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of absolute jurisdiction on the Tehsildar, Revenue Court or the Collector, as the case may be, notwithstanding any provision of law or any suit or decree of a civil court or for that matter even where evictions have taken place in pursuance of such decrees, the evicted tenants can be restored to occupation provided the requirements for the protection of the possession of the tenants are satisfied. In that case the occupant in possession laid proceeding before the Tehsildar for injunction restraining the writ petitioner from ejecting him from the lands. The Tehsildar in exercise of the power under Rule 16 of the Rules granted injunction pending consideration of his right to ryotwari patta. The order of injunction was challenged firstly on the ground of ultra vires of Rule 16 and secondly on the ground of jurisdiction. While upholding the order on both the ground the learned judge held that Tehsildar, Revenue Court and the Collector have exclusive jurisdiction and the civil suit is barred. We respectfully approve it as correct law. The Inams Act did not intend to leave the decisions of the revenue courts under Section 3 read with Section 7 to retry the issue once over in the civil court.



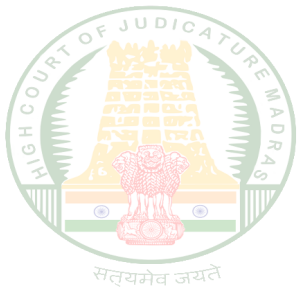
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Undoubtedly the decision of the Division Bench in P. Peda Govindayya v. P. Subba Rao [(1969) 2 ALT 336] is in favour of the contention that the civil suit is maintainable. It is not good law.

29. Thus the glimpse of the object of the Inams Act, scheme, scope and operation thereof clearly manifest that Inams Act is a self-contained code, expressly provided rights and liabilities; prescribed procedure; remedies of appeal and revision, excluded the jurisdiction of the civil court, notwithstanding anything contained in any law, given primacy of Inams Act though inconsistent with any law or instrument having force of law. The jurisdictional findings are an integral scheme to grant or refuse ryotwari patta under Section 3, read with Section 7 and not collateral findings. It was subject to appeal and revision and certiorari under Article 226. The decision of the Revenue Tribunal, are final and conclusive between the parties or persons claiming right, title or interest through them. The trick of pleadings and the camouflage of the reliefs are not decisive but the substance or the effect on the order of the tribunal under the Inams Act are decisive. The civil suit except on grounds of fraud, misrepresentation of collusion of the parties is not maintainable. The necessary conclusion would be that the civil suit is not maintainable when the decree directly nullifies the ryotwari patta granted under Section 3 of the Inams Act. Under the Gram Panchayat Act the statutory interposition of vesting the tank and the appurtenant land in the Gram Panchayat made it to retain possession, control and supervision over it, though the Gram Panchayat unlawfully took possession. The need to grant decree for possession in favour of the Gram Panchayat is thus redundant. The suit of the descendants was normally to be decreed on the finding that ryotwari patta under Section 3 of the Inams Act was granted in their favour and that they were unlawfully dispossessed. Since the grant of ryotwari patta, though in the name of individuals, was to maintain the public tank which stood vested under Section 85 of the Act in the Gram Panchayat, the descendants are divested of the right and interest acquired therein. Thus the suit of the descendants also is liable to be dismissed. Accordingly, the decrees of dismissal of both the suits are upheld and the appeals dismissed. But in the circumstances, parties are directed to bear their own costs."



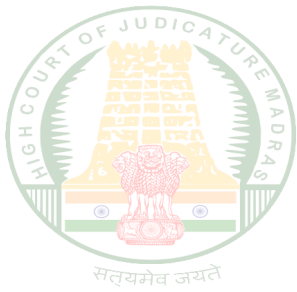
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47.2. Admittedly, none of these exceptions are even alleged in the present case. In the present matter, the Temple received Ryotwari pattas after a complete enquiry by the Settlement Tahsildar under Act 30 of 1963. These orders were subsequently affirmed in appeal and revision, and they have reached finality under the Act. The defendants neither sought any further statutory remedy nor shown any grounds that could invalidate the pattas under some other exceptions acknowledged by the Hon'ble Supreme Court. Once the statutory authorities conclusively held that the Temple is entitled to patta, the question of title also stood concluded, because the Hon'ble Supreme Court has made it clear that a valid grant of patta under the Inam Abolition Act determines the title of the grantee. Therefore, the courts below had no jurisdiction to reconsider or question the Temple's title in civil proceedings.

47.3. By entertaining the defendants' claims and reopening the issue of title which the special authorities under the Act had already settled the lower courts acted contrary to the law declared by the Hon'ble Supreme Court. The pattas issued to the Temple are final and binding, and they operate as conclusive proof of the Temple's ownership over the suit lands. Thus, this substantial question of law is answered in favour of the appellant.

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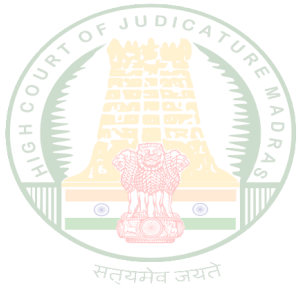
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48. Substantial Questions of Law No.9:

Whether the lower Court is right in relying on the decision in 1978 TLNJ 197 which arose out of a suit for permanent injunction and more so as there is no doubt as to identity of property in the case?

48.1. On this substantial question of law, the lower Court was not correct in relying on the decision reported in 1978 TLNJ 197. That case dealt with a suit for permanent injunction, which is entirely different from the present matter concerning ownership and possession of Iruvaram Inam lands. In the present case, there is no dispute about the identity of the property the land in question is clearly part of the Iruvaram Inam granted to the Temple under Inam Title Deed No.722. The Temple's title was confirmed by the Ryotwari Patta issued under Section 11 of the Tamil Nadu Inams (Abolition and Conversion into Ryotwari) Act, 1963, after proper enquiry by the Settlement Tahsildar. The defendants admit the identity of the land but claim tenancy or other rights, which is not supported by evidence and is contrary to the statutory record. Since the identity of the property is clear and the Temple's title has been conclusively recognized by the competent authority, the precedent cited by the lower Court does not apply. Therefore, the lower Court erred in using it to dismiss the suit. Accordingly, this substantial question of law is also answered in favour of the appellant.

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49. In view of the above, the substantial questions of law are answered in favour of the appellant–Temple and against the respondents. The findings of the Courts below are perverse and unsustainable in law. Accordingly, The Second Appeals are allowed. The common judgment and decrees of the Courts below are set aside. The appellant is entitled for recovery of possession as prayed for in the suit. However, as far as the mesne profits are concerned, the appellant–Temple is at liberty to initiate separate proceedings under Order XX Rule 12 CPC. There shall be no order as to costs.

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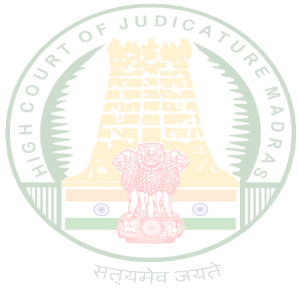
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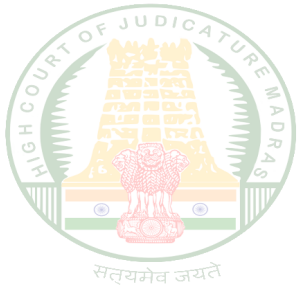


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To

- 1.The Principal District Court, Tiruchirapalli,
- 2.The Principal District Munsif Court, Tiruchirapalli.



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P.VELMURUGAN, J.

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Pre-Delivery Judgment made in
S.A.Nos.924 of 1998, 968 to 972 of 1997,
611 of 2002 & S.A.(MD).388 of 2017

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