

S.A.No.2074 of 2002

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 07.04.2025

DELIVERED ON : 13.05.2025

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

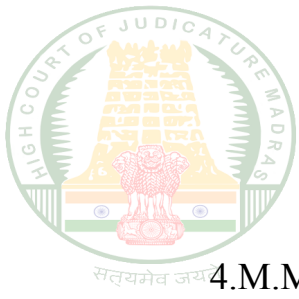
S.A.No.2074 of 2002
C.M.P.No.18050 of 2002

- 1.T.Ramasami (Died) ... Appellant/Appellant/Plaintiff
- 2.R.Esakki
- 3.A.Esakkiammal
- 4.R.Saravanan
- 5.R.Senthilnainar
- 6.T.Mahalakshmi

(Appellants 2 to 6 are brought on record as Lrs. Of the deceased sole appellant as per the order dated 19.12.2024 passed in C.M.P.(MD).No. 3865 of 2024)

Vs.

- 1.The Government of Manipur,
through Its Commissioner Finance,
having office at Imphal, Manipur.
- 2.The Director,
Manipur State Lottery
having office at Imphal, Manipur.
- 3.Iqbal Chand Kurana,
Organizer,
Manipur State Lotteries,
No.3, Khurshid Market, Sardar Bazaar,
New Delhi – 6.



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4.M.Mohamed Khan,
Lucky Centre, East Fort,
Trivandrum.

5.G.Muthammal,
Indian Lottery Centre,
Sandhai Bazaar, Main Road,
Ambasamudram, Tirunelveli.

6.N.G.V.Pakshiraja, Indian Lottery Centre,
Sandhai Bazaar, Main Road,
Ambasamudram, Tirunelveli.

7.K.Madhavan ... Respondents/Respondents/Defendants

PRAYER : Second Appeal filed under Section 100 of the Civil Procedure Code, to set aside the Judgment and Decree in A.S.No.19 of 1994 on the file of the Sub Judge, Ambasamudram, dated 19.12.2001 in confirming the Judgment and Decree in O.S.No.850 of 1982 dated 02.09.1994 on the file of the Additional District Munsif, Ambasamudram.

For Appellants : Mr.V.Kannan

For Respondents : Mr.D.S.Neduncheliyan for R1
Government Advocate

JUDGMENT

This appeal has been filed against the Judgment and Decree in A.S.No.19 of 1994 on the file of the Sub Judge, Ambasamudram, dated



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19.12.2001 in confirming the Judgment and Decree in O.S.No.850 of 1982 dated 02.09.1994 on the file of the Additional District Munsif, Ambasamudram.

2.The averments in the plaint:

The plaintiff purchased the Super Bumper Lottery numbering about 5 from the defendants 5 and 6, conducted by Manipur Government. The first defendant is the Government of Manipur through its Finance Commissioner. The second defendant is the Director of Manipur Lottery. The lot was conducted on 09.11.1982. The first price was announced as Rs.10,00,000/- (Rupees Ten Lakhs). The plaintiff purchased the lottery ticket bearing No.PP222383. As per the Newspaper report, the above said ticket number won in the lot and Rs.10,00,000/-, carried as price amount. So the plaintiff deposited the lottery ticket on 10.11.1982 before Bank of Tamil Nadu, Ambasamudram Branch. Later, a press release was issued in Tamil Daily called Dinakaran and Dinamalar on 17.11.1982, that price was not for the ticket number PP222383, but the ticket bearing number TT222383 was the winner. So the plaintiff issued a notice through telegram on 17.11.1982 to the second defendant claiming the



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price amount.

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3.The 4th defendant's brother approached him on 10.11.1982, stating that if the ticket is given to him without informing defendants 1 to 3 he will arrange to get the price amount of Rs.8,00,000/-. But the plaintiff refused. Later it came to know that only 4th defendant issued the press release stating that the ticket bearing No.PP222383 was not the winner, whereas, for the ticket bearing No.TT222383, such a notification was issued by the fourth defendant. So the suit is filed for declaratory relief as mentioned above stating that the 7th defendant is not the winner of the ticket and he is claiming under the instructions of the fourth defendant.

4.The brief averments made in the written statement filed by the defendants 1 and 2, which was adopted by the defendants 3 and 4:

No press release was issued by the defendants 1 and 2 on 10.11.1982 stating that the lottery ticket bearing number PP222383 won the first price, since no such press release was issued by them. Any thing published by the newspapers are not binding upon them.



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5. On 09.11.1982, lots were drawn for the super bumper 46 issue in the public place in the presence of 5 persons. Those 5 persons belong to various departments. The result was immediately published and it was written in the Black Board. After drawing all the lots the five persons signed in the Register and Certificate. So in the lot drawn the ticket bearing number TT222383 was the winner of the first price. It was published in the official gazette dated 10.11.1982. So it is wrong to say that the ticket bearing No.PP222383 was the winner of the price.

6. The above said fact was intimated to the plaintiff's Bank along with gazette notification. It is equally denied that 7th defendant did not purchase the price ticket. It is equally denied that 4th defendant instigated the 7th defendant to make a claim.

7. Apart from that other customary denials were also made in the written statement.



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8.The brief averments stated in the Statement filed by the 7th

defendant:

He purchased the ticket bearing No.TT222383 from the agent and in the lots drawn on 09.11.1982, it was the winner. The above said result was published in Manipur Government Gazette on 10.11.1982. The ticket was deposited in Allahabad Bank, Trivandram. He claimed the ticket amount from the second defendant. Apart from that other customary denials were made.

9.The brief averments made in the written Statement of the 4th

defendant:

He is not the area stockist for Manipur Lottery. But, the defendants 5 and 6 were not the sub agent of this defendants. The ticket bearing number PP222383 series were not sold by him. But on the contrary one Mohamed Khan and brother Lucky Centre, sold the tickets bearing serial number PP222383. No press release or newspapers publication was made by him. A wrong news was published by Mohammed Khan and brothers. The other allegations made against them are denied.



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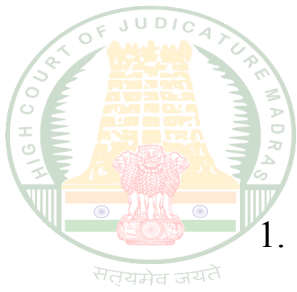
10. On the basis of the pleadings of the respective parties, the trial Court formulated the following issues. Apart from that two additional issues were framed on 02.03.1984 and 09.06.1993.

1. Whether the plaintiff has legal right to file this suit?
2. Whether the plaintiff is entitled to claim declaration against the Government notification of Manipur Government regarding the 46th Bumper Lot Results?
3. Whether the Lottery number 222383 shown in the Government Notification of Manipur Government did not win first prize?
4. Whether this Court has territorial jurisdiction to entertain this suit?
5. Whether the defendants 1, 3 & 4 are necessary parties?
6. Whether the fourth defendant appointed an agent to sell the Manipur Lotteries in Ambasamudram?
7. To what other relief the plaintiff is entitled to?

Additional issues framed on 02.03.1984.

1. Whether the fact that the Lottery No.TT222383 has won the first price in 46th Bumper lot and the same was entitled to the 7th defendant is correct.?

Additional Issues framed on 09.06.1993:



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1. Whether this Court has pecuniary jurisdiction to entertain this suit as mentioned in para 14 of the 4th defendant's additional written statement?

11.To substantiate the case, on the side of the plaintiffs 2 witnesses was examined and 2 documents were marked. On the side of the defendants 6 witnesses were examined and 22 documents were marked.

12.At the conclusion of the trial process the trial Court dismissed the suit without any costs. Against which, appeal was preferred in A.S.No.19 of 1994 before the Sub Court, Ambasamudram. It concurred with the Judgment and Decree of the trial Court. Appeal was dismissed without any costs. Against which, this second appeal is preferred by the plaintiff.

13.At the time of admission, the following substantial question of law were framed by this Court.

1. Whether the burden is not on respondents 1 to 3 to plead and explain the alleged error that had occasioned in publishing the



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results and whether the respondents have discharged their burden in this behalf?

2. Whether utmost adverse inference ought not to be drawn against the respondents for non-production of material evidence before Court?

14.Before we go into the substantial question of law, the background facts may be kept in mind, So that the facts can be appreciated in proper perspective.

15.It is an unfortunate case of the plaintiff. The reason for me to say that it is an unfortunate case is that the plaintiff is the purchaser of a lottery ticket bearing number PP222383 conducted by Manipur Government. From whom, it was purchased, according to the plaintiff is the fourth defendant by name Mohammed Khan. But, Mohammed Khan disputes the above said agency regarding the serial numbers bearing PP. We need not concentrate much upon that issue.

16.It appears that several newspapers carried news item allegedly



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published by or released by one agent called Mohammed Khan and Brothers Lucky Centre. It carried a news item that the ticket bearing No.PP222383 was the winner of the lots. Believing the words of the above said press release, the plaintiff deposited the ticket with his Bank as mentioned above. But, later it turned to be a wrong news and correct winner of the ticket was bearing TT222383 as per the Manipur Government Gazette notification issued on 10.11.1982 gazette extraordinary. Now stating that the fourth defendant colluded with the 7th defendant to wrongfully gain the price money, he filed the suit for declaration and injunction.

17.A simple point arises before the trial Court as well as the appellate Court. Whether the gazette notification issued by the first defendant could be believed or whether the press release or the newspapers' news item which bearing the news as if the lottery ticket bearing number PP222383 is the winner. The copy of the gazette notification was marked before the trial Court as Ex.B2. Evidencing the same on the side of the defendant the competent authority namely the Additional Director, Manipur Lottery was examined as DW3 and



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Secretary to the Government was examined as DW4. Now we will straight away go to their evidence and the copy of the gazette notification.

18.DW3 would say that on 09.11.1982, lots were drawn in respect of 46 issue of Manipur Lottery in Town Hall situated in Sooranpur. Relevant records were placed before him. During the lot 5 persons were deputed as Judges. As per procedure the Judges will make an entry of the price lottery tickets. The main Register was handed over to Joint Director of Lotteries Manipur. At the time of his evidence, DW3 brought that Register to the Court. The result of the lot will be intimated to the Manipur Government for publishing in the official gazette. Another intimation was given to the local newspapers. The copy of the concerned Register was marked before the trial Court. So also the gazette notification as Ex.B2. So according to him, the ticket bearing No.TT222383 was the winner and not the ticket bearing No.PP222383.

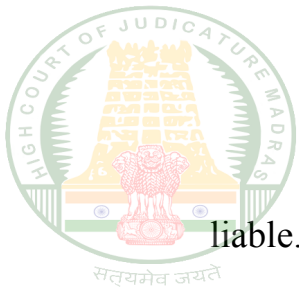
19.But, in the newspaper press release it was wrongly noted as ticket bearing No.PP222383. That mistake was committed by the agent.



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Later a corrigendum was issued by the organizing agent, D3 who was the agent. From the evidence of DW3 it stand established that because of the mistake committed by third defendant all the newspapers carried the news as if the ticket purchased by the plaintiff bearing number PP222383 is the winner. But in the gazette the correct ticket number is mentioned. So it is seen that the plaintiff was carried away or misdirected regarding misinformation published by the third defendant. After coming to know about the mistake, third defendant issued a corrigendum also. The above said mistake is also published in Dinathanthi newspaper on 04.12.1982 stating that the correct price winner ticket Number is TT222383 and not PP222383. The gazette notification dated 10.11.1982 also reads that the first price winner is TT222383. So it is seen that all the misinformation spread as if the winner is PP222383. The original of the notification itself was produced before the trial Court. So against this official publication of result in the gazette notification whatever misinformation or wrong information release by any authority or any agents is not valid.

20.No doubt that the plaintiff was misdirected or misinformed about the result, for which, the first and second defendant cannot be held



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liable. He is not entitled for any declaration that the purchased tickets must be declared as winner. It is quiet against the Rules of Conducting Lotteries, once result is declared in the official gazette that must be taken as correct.

21. But the substantial question of law were framed as if the original notification was not produced before the trial Court. Only copies were produced. Section 81 of Indian Evidence Act (Old) reads as under.

81. Presumption as to Gazettes, newspapers, private Acts of Parliament and other documents.

The Court shall presume the genuineness of every document purporting to be the London Gazette or [any official Gazette, or the Government Gazette] [Substituted by A.O. 1937, for "the Gazette of India, or the Government Gazette of any L.G., or".] of any colony, dependency or possession of the British Crown, or to be a newspaper or journal, or to be a copy of a private Act of Parliament [of the United Kingdom] [Inserted by A.O. 1950.] printed by the Queen's Printer and of every document purporting to be a document directed by any law to be kept by any person, if such document is kept substantially in the form required by law and is produced from proper



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custody.

81-A. Presumption as to Gazettes in electronic forms.

[Inserted by Act 21 of 2000, Section 92 and Sch.II (w.e.f. 17.10.200).]

The Court shall presume the genuineness of every electronic record purporting to be the Official Gazette, or purporting to be electronic record directed by any law to be kept by any person, if such electronic record is kept substantially in the form required by law and is produced from proper custody.]

22. So the presumption is available in favour of the gazette notification issued by the first defendant. Against this presumption no substantial question of law will arise. As mentioned above, some mental agony was caused by the misinformation or wrong information. The plaintiff can proceed only against 4th defendant and certainly a declaratory relief of this nature, which is per se illegal cannot be granted.

23. So I find that no substantial question of law has arisen in this matter, since the copy of the gazette notification was produced before the



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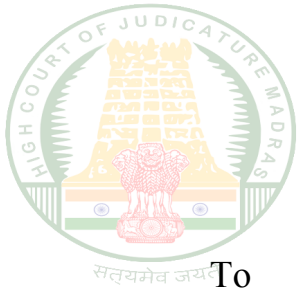
trial Court which was verified by the evidence of the DW3 and DW4. So the official act cannot be questioned by the plaintiff stating that those documents were corrected for the purpose of supporting the case of 7th defendant, who is the actual purchaser of the price ticket.

24. So the suit itself is nothing but an misconceived one. Instead of choosing the right party for the right relief, he has chosen a wrong relief against the wrong person namely the defendants 1 and 2. So I find that no error of law or fact were committed either by the trial Court or by the appellate Court Judgments passed by both the Courts are perfectly legal, which requires no interference in view of the above said conclusion the substantial question of law now framed does not arise at all.

25. In the result the appeal is dismissed of course without any cost. Consequently, connected miscellaneous petition is closed.

13.05.2025

Index : Yes / No
Internet : Yes / No
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To

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- 1.The Subordinate Judge, Ambasamudram.
- 2.The Additional District Munsif, Ambasamudram.
- 3.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

TM

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