



THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment reserved on : 15.12.2025

Judgment pronounced on : 13.02.2026

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THE HON'BLE MR. JUSTICE P.B.BALAJI

A.S.No.519 of 2024
& CMP.No.15909 of 2024

V.Selvam

.. Appellant

Vs.

G.Sabarinathan

.. Respondent

Prayer: Appeal Suit filed under Section 96 of the Code of Civil Procedure, to set aside the judgment and decree dated 14.06.2024 in O.S.No.50 of 2022 on the file of the Additional District Court, Dharmapuri.

For Appellant : Mr.N.Manoharan

For Respondent : Mr.R.Selvakumar

JUDGMENT

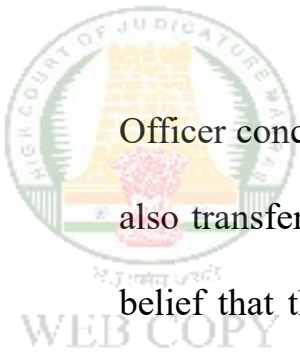
The plaintiff, aggrieved by the dismissal of O.S.No.50 of 2022 on the file of the learned Additional District Judge, Dharmapuri, is the appellant.



2. Pleadings; The plaint in brief:

(a) The plaintiff is a stage carriage operator at Vellore, carrying on business under the name and style of M/s.Sri Ramajayam Bus Service. The plaintiff had purchased the suit property, which is the motor vehicle with Regn.No.TN-63-U-4845 from one D.Sathishkumar, for consideration. The plaintiff has been using the said vehicle as a spare bus to ply his permitted route, namely Vellore to Thanipadi via Thiruvannamalai. The plaintiff had mortgaged the vehicle with M/s.Sundaram Finance for a loan amount of Rs.8 lakhs on 08.06.2018. The vehicle had become old and the plaintiff, with an intention to go with a latest model motor vehicle, informed middlemen in the business of resale of commercial vehicles. The defendant approached the plaintiff and offered to purchase the vehicle. After negotiations, a price of Rs.4,50,000/- was fixed and the plaintiff, after receiving the entire consideration from the defendant, handed over the vehicle to the defendant.

(b) The plaintiff, as promised, at his end, surrendered the spare bus permit he was holding and also foreclosed the loan with M/s.Sundaram Finance. The vehicle was handed over to the defendant on 19.12.2019 with a valid Fitness Certificate, as well as insurance, which was valid till 19.07.2020. The plaintiff signed all transfer forms and handed over the same to the defendant. It is the duty of the defendant, as purchaser, to effect name transfer, by submitting all documents and forms to the Regional Transport



Officer concerned. On surrender of the plaintiff's permit, the RTO, Thiruvannamalai has also transferred the documents to RTO, Palacode. The plaintiff was under the bonafide belief that the defendant had effected name transfer. However, he came to understand that the defendant had not effected transfer, when he received summons in several motor accident claim petitions, that had been filed before the Special Sub-Judge, (MACT), Dharmapuri.

(c) The defendant has been operating the vehicle without any valid permit and insurance policy. The defendant has plied the vehicle illegally, in contravention of the Tamil Nadu Motor Vehicle Rules, as well as various provisions of the Motor Vehicles Act itself. On enquiry, the plaintiff came to know that the defendant had caused an accident on 28.10.2020 and FIR in Crime No.246 of 2020 had been registered with the Sub-Inspector of Police, Anchety Police Station. The plaintiff was not the owner of the vehicle on 28.10.2020, that is the date of accident and therefore, it was only the defendant, who had taken possession of the vehicle on 19.12.2019, who could be termed as the real owner of the vehicle. Consequently, the plaintiff is not liable to the illegal acts committed by the defendant, as well as the claims made against the plaintiff in the MCOP.Nos.85, 86, 87, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 120, 11, 122 of 2021 on the file of the Special Judge (MACT), Dharmapuri and MCOP.Nos50, 51, 52, 53 of 2021 on the file of the Sub Court, Palacode. The plaintiff has been put to mental stress and agony and the defendant is liable to pay the cost of all the MCOPs, along with



the cost of suit as well. The plaintiff also prayed for compensation of Rs.7,50,000/-, apart from seeking the relief of declaration that the plaintiff is not the owner of the vehicle and for the relief of mandatory injunction that the defendant has to effect transfer of ownership in his name.

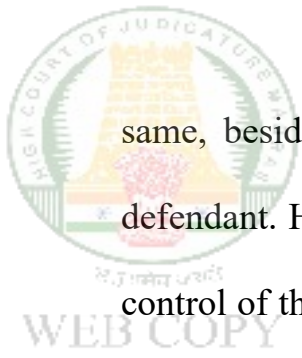
3.The defendant did not choose to contest the suit and was set ex-parte. However, the trial Court, on the examination of one Pandian, the Manager of the plaintiff/appellant as P.W.1, found that the plaintiff had not proved the suit claim and was not entitled to any of the reliefs. The suit was dismissed in entirety. Challenging the said dismissal of the suit, the present appeal has been preferred.

4.In the present appeal, however, the respondent, who was the defendant in the suit, has appeared through counsel.

5.I have heard Mr.N.Manoharan, learned counsel for the appellant and Mr.R.Selvakumar, learned counsel for the respondent.

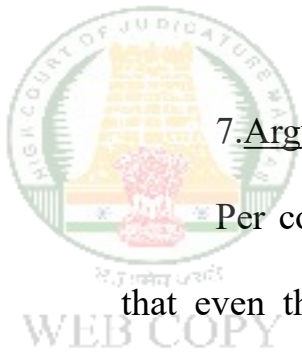
6.Arguments of the learned counsel for the appellant:

(a) Mr.N.Manoharan, learned counsel for the appellant would contend that the defendant could not foresee the accident and what all had to be done legitimately, had been done by the plaintiff, by handing over the vehicle and procuring a receipt for the



same, besides signing all necessary transfer forms and handed over the same to the defendant. He would therefore state that when the vehicle was admittedly not under the control of the defendant, the mere fact that the vehicle was registered in the name of the plaintiff could have never been a ground to non suit the plaintiff. He would further state that the act of registration is only a post sale of the vehicle event and when the plaintiff had been diligent throughout and had even surrendered the permit, which was enjoyed by him, the suit could not have been dismissed.

(b) The trial Court failed to draw adverse inference against the defendant, who did not even enter appearance to contest the suit before the trial Court. In respect of his submissions, the learned counsel for the appellant has relied on the decisions of this Court, as well as the Hon'ble Supreme Court in *National Insurance Company Limited Vs. Deepa Devi and others*, reported in (2008) 1 SCC 414; *HDFC Bank Limited Vs. Reshma and others*, reported in (2015) 3 SCC 679; *the Commissioner of Commercial Taxes, Thiruvananthapuram, Kerala Vs. K.T.C.Automobiles*, reported in (2016) 4 SCC 82; *N.S.Palani Vs. Sulochana and others*, reported in (2017) 8 MLJ 478; *Naveen Kumar Vs. Vijay Kumar and others*, reported in (2018) 3 SCC 1; and *Karikho Kri Vs. Nuney Tayang and another*, in Civil Appeal No.4615 of 2023 dated 09.04.2024.



7. Arguments of the learned counsel for the respondent:

Per contra, Mr.R.Selvakumar, learned counsel for the respondent would contend that even though the defendant did not contest the suit, it was always open to the defendant to dispute the plaintiff's entitlement to the suit claim, by participating in the first appeal proceedings. He would further state that the suit has been filed only in order to get over the claim for compensation made against the plaintiff and that the suit was clearly premature, when the MCOPs are all pending before the Tribunal. He would further state that the relief of declaration was couched in a negative form and the same is impermissible and such relief cannot be granted to the plaintiff. He would also rely on Sections 2(30) and 50 of the Motor Vehicles Act, which deals with a registered owner for the purposes of the claims for compensation and contend that the claim for recovery of money under the head of damages is nothing but the very same compensation amount that has been claimed from the plaintiff before the Tribunal and in the absence of the victims who approached the Tribunal, the learned counsel for the respondent, would contend that no decree can be passed, that too, as prayed for by the plaintiff. In support of his contention, the learned counsel for the respondent has relied on the decision of the Aurangabad Bench of High Court of Bombay in *Sopan Vs. Rajabhau and another*, in *ALP.No.146 of 2023* dated 22.04.2024. He would also draw strength from the decisions that have been relied on by the trial Court, in order to non suit the plaintiff.



8.Points for consideration:

Considering the pleadings, evidence available before the trial Court, as well as the arguments advanced by the learned counsel on either side, I formulate the following points for consideration:

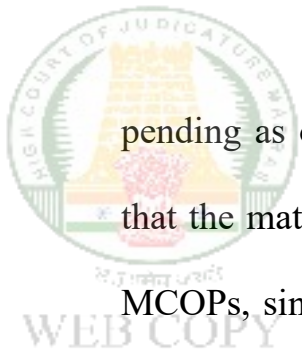
1. Whether the plaintiff is entitled to the relief of declaration, as prayed for?

2. Whether the plaintiff is entitled to the relief of mandatory injunction as prayed for?

3. Whether the plaintiff is entitled to compensation of Rs.7,50,000/-.

9.It is not in dispute that the defendant has purchased the suit vehicle from the plaintiff for a valid consideration and has also taken possession of the same from the plaintiff. In view of the defendant remaining ex-parte and having lost his opportunity to contest the suit, there is no pleading or evidence on the side of the defendant. Therefore, it is not open to the defendant to put forth his defence as a shield, in support of the findings of the trial Court. However, at the same time, it is open for the defendant to argue on the maintainability of the reliefs sought for by the plaintiff and consequently, the entitlement of the plaintiff to such reliefs.

10.Admittedly, after having purchased the vehicle from the plaintiff and when the defendant was in possession of the vehicle, the road accident has occurred, which has resulted in several claim petitions being filed by the victims. The MCOPs are admittedly



pending as on date. In fact, the learned counsel for the appellant even made a request that the matter may be remanded to the trial Court and be tried along with the pending MCOPs, since the reliefs sought for are all revolving around the accident claims made by the claimants and consequently, if there is any such joint trial, then the liability can also be easily fixed.

11. In *National Insurance Company Limited's case*, referred herein supra, the Hon'ble Supreme Court interpreted the word 'owner' as defined under Section 2(30) of the Motor Vehicles Act and held that it should be understood from common sense point of view. The Hon'ble Supreme Court further held that save and except for legal ownership, for all intent and purport, the registered owner of the vehicle loses entire control thereover. Admittedly, the Hon'ble Supreme Court was testing the definition of 'owner' under the Motor Vehicles Act in the context of whether the State would be liable to pay compensation to the victim of the accident when the car had been requisitioned by the State for the purposes of deploying the same in election duty. In such circumstances, the Hon'ble Supreme Court held that the vehicle being under the control of the State alone would be liable to compensate the claimants.

12. In *Naveen Kumar's case*, referred herein supra, the Hon'ble Supreme Court held that when the name of the registered original owner continued to be reflected in the records of the registering authority, despite sale of vehicle, the registered owner would



still be liable to compensate the victims of motor accidents, as any other interpretation would defeat the salutary object and purpose of the Motor Vehicles Act itself. The Hon'ble Supreme Court further held that the principle underlying the provision of Section 2(30) is only that the victim of a motor accident or, in the case of a death, the legal heirs of the deceased victim should not be left in a state of uncertainty and a claimant for compensation should not be burdened with following a trail of successive transfers which are not registered with the registering authority.

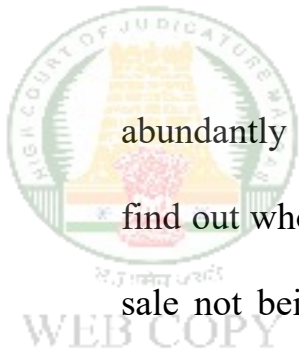
13. In *HDFC Bank Limited's case*, referred herein supra, the Hon'ble Supreme Court again discussed the definition 'owner' occurring under Section 2(30) and also held that the registered owner is a person in whose name the motor vehicle stands registered. The Hon'ble Supreme Court also discussed two exceptions, the first being the case of a minor being the owner, in which cases, the guardian of the minor would have to be treated as the owner and the second exception being cases where the motor vehicle was subjected to hire purchase agreement or hypothecation agreement, where the person in possession of the vehicle would be the owner. On facts, the Hon'ble Supreme Court found that the Bank had financed the owner of the vehicle for the purchase and a hypothecation agreement was also in place and when the borrower had plied the vehicle without its obligation to insure the vehicle, held that the Bank does not become liable to compensate the victims and the owner/borrower alone was liable for the same.



14. In *Commissioner of Commercial Taxes's case*, referred herein *supra*, the Hon'ble Supreme Court, was dealing with sales tax and VAT in the context of sale of a new motor vehicle; on the facts of the said case revolved around whether any penalty was to be imposed upon the dealer for non-maintenance of true accounts. I do not see how the facts of the said case would be relevant and apply to the facts of the present case.

15. In *N.S.Palani's case*, referred herein *supra*, this Court, referring to Sections 2(30) as well as 50 of the Motor Vehicles Act, held that the transferee is under a statutory obligation to apply for entering his name in the place of a transferor by submission of necessary forms. However, on facts, this Court found that the claimants before the Tribunal claiming compensation had conceded that they were aware of the factum of transfer and in such circumstances, this Court modified the award of the Tribunal, fastening liability on the actual owner of the offending vehicle on the date of the accident.

16. In *Karikho Kri's case*, referred herein *supra*, the Hon'ble Supreme Court, referring to *Naveen Kumar's case*, discussed herein *supra*, with regard to who would be the owner of an offending vehicle in terms of the definition under Section 2(30) of the Act, held that the judgment in *Naveen Kumar's case* was rendered in the context of the purposes of the Act of 1988, namely the Motor Vehicles Act, where it has been



abundantly made clear that claimants should not be made to run from pillar to post to find out who was the owner of the vehicle as on the date of accident, in the event of the sale not being carried out in the books of the authorities concerned and holding that vehicle being 'goods', sale of a vehicle would be covered by provisions of the Sale of Goods Act, 1930 and conveyance of ownership of the vehicle would stand concluded upon execution of the document of sale/transfer and registration in the name of the new owner by the authority would only be a post sale event.

17. As held in *Commissioner of Commercial Tax case*, referred herein supra, the Hon'ble Supreme Court held that mere failure to get the name of the new owner registered does not mean that the sale transaction would stand invalidated and once the vehicle in question was either gifted or sold, the said vehicle cannot be considered to be owned by the original registered owner. The Hon'ble Supreme Court was dealing with this issue in the context of an election petition, where non disclosure of the vehicles had become a contentious issue.

18. The Aurangabad Bench of Bombay High Court in *Sopan's case*, referred herein supra, distinguished the case of *Karikho Kri's case* as it was pertaining to an election petition on the ground that the issue was only non disclosure of ownership of a vehicle by a contesting candidate.



19. Keeping in mind the ratio laid down in the above cases, I proceed to decide the points that arise for consideration in the present appeal.

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20. Admittedly, it is not open to the defendant to now contend that the vehicle was not purchased by him and that on the date of the accident, it was not under his control. The fact remains that the vehicle though purchased by defendant, continued to remain in the name of the plaintiff in the official records of the registering authorities.

21. In so far as the provisions of the Motor Vehicles Act, 1988, is concerned, the law is now fairly well settled and even the Three Judge Bench of the Hon'ble Supreme Court in *Naveen Kumar's case*, has clearly held that the definition of 'owner' under Section 2(30) has to be relied in the context of the object and purport of the motor vehicles legislation and unfortunate victims and claimants in motor accident claims should not be made to run from pillar to post to claim fair compensation for the injuries/death arising out of motor accidents and for such purposes, the registered owner as defined under Section 2(30) alone would be liable to meet the award of compensation.

22. The various decisions, that have been relied on by the learned counsel for the appellant, apart from *Naveen Kumar's case*, namely *HDFC Bank Limited's case*, as well as *N.S.Palani's case* were arising out compensation cases filed before the Motor



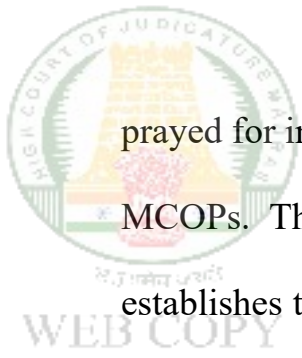
Accident Claims Tribunal. In such matters, the Courts were confronted with whether the liability to pay compensation would be on the registered owner or the transferee, if any.

The present case is not arising under the Motor Vehicles Act. It is a civil suit filed by the plaintiff in 2022, after having admittedly sold the vehicle to the defendant even on 19.12.2019. The plaintiff has not taken any follow up steps to ensure that the defendant had submitted necessary forms and documents and effected the transfer of name in his favour, pursuant to the purchase of the vehicle. The cause of action for filing of the suit is clearly the receipt of summons in the MCOPs which have been filed claiming compensation against the plaintiff. It is not in dispute that the claim petitions are still pending before the Tribunal and no awards have been passed.

23.The relief sought for by the plaintiff in the suit are as follows:

- 1.To declare that the plaintiff is not the owner of the subject vehicle bearing Registration No.TN 63 U 4845.
- 2.Grant a mandatory injunction to the defendant to effect transfer of ownership of the property in the defendant's name.
- 3.To avoid compensation of Rs.7,50,000/-.

24.As rightly contended by Mr.R.Selvakumar, the learned counsel for the respondent that the first relief of declaration is a negative relief. If such relief is granted, the plaintiff would be entitled to take advantage of the same and contend that he had been declared to be not the owner of the subject vehicle with effect from 09.09.2019 as



prayed for in the suit and would not be liable to pay compensation to the claimants in the MCOPs. Therefore, the very relief, that too, couched in the negative form clearly establishes the fact that plaintiff was only attempting to get over the claim petitions filed by the victims against him, pending before the Tribunal. It is not even a case where the plaintiff has suffered awards and has satisfied the compensation amounts in order to seek indemnification/reimbursement from the defendant.

25. Even the claim of Rs.7,50,000/- towards compensation has not been proved or established. The plaintiff did not even chose to examine himself before the trial Court and one Pandian, his Manager alone was examined as P.W.1. By producing Ex.A1, acknowledgment of surrender permit on 20.08.2019; Ex.A2, delivery note issued by the plaintiff to the defendant and Ex.A4, FIR in Crime No.246 of 2020, the plaintiff has certainly established the factum of having given possession/delivery of the subject vehicle and that the accident has occurred after he had sold the vehicle to the defendant. However, this will not absolve the plaintiff from meeting the compensation claims made by the victims before the Tribunal. Section 2(30) r/w Section 50 of the MV Act fastens liability only on the registered owners. The Hon'ble Supreme Court in *Naveen Kumar's case* also highlighted this position and also discussed the objects behind the said provisions. In the light of the above, the plaintiff, by way of the present suit, cannot attempt to shift his liability on to the purchaser of the vehicle, that too, even before claim

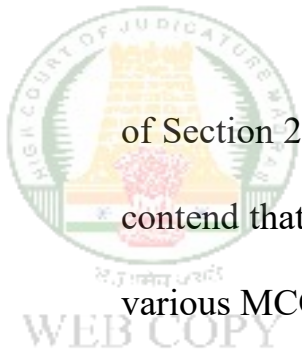


petitions could be decided, leave alone any compensation being shelled out by the plaintiff to the claimants.

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26. The trial Court, in fact, has applied the ratio laid down in *Naveen Kumar's case* and came to the conclusion that the plaintiff cannot absolve himself of liability insofar as the claim petitions before the Tribunal. In fact, the trial Court also discussed Ex.A2, delivery note and found that the delivery note does not even bear a date and does not contain any particulars, excepting the registration number of the vehicle. The trial Court also found that the plaintiff has not established his claim that he reported the fact of transfer to the RTO, within the time prescribed under Section 50 of the Act and that only after receipt of summons in the MCOPs, the plaintiff filed the suit.

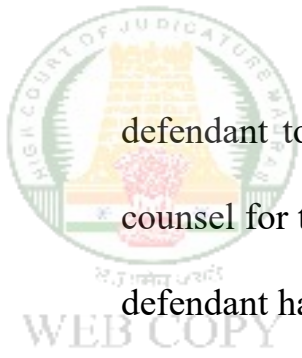
27. At the same time, it is equally to be borne in mind that the definition of 'owner' under Section 2(30) is only for the purposes of expeditious conclusion of MCOPs and to not drive innocent third party claimants or legal heirs of dead accident victims to go on a wild goose chase to ascertain the owner of the vehicle on the date of the accident. Therefore, it cannot be said that the question of ownership cannot be decided outside the realm of the MV Act. At the same time, having slept over the matter for close to three years and approaching the civil Court only after receiving summons in the MCOPs and seeking the reliefs as prayed for, clearly indicate that the plaintiff was only attempting to get over the MCOPs that have been slapped against him. In the light



of Section 2(30) r/w Section 50 of the MV Act, it is too late in the day for the plaintiff to contend that he will not be liable to meet the claims made by the victims and pending in various MCOPs before the Tribunal

28.The trial Court, in my considered opinion, has rightly held that the suit is an after thought to escape liabilities from the MCOPs and that too, in the absence of claimants who are necessary parties to the suit, the issue of whether the plaintiff is the registered owner cannot be decided in the present suit. Though it is contended by the learned counsel for the appellant, Mr.N.Manoharan that the matter can be remanded to the trial Court and it can be clubbed and tried jointly with the MCOPs, such an exercise would only lead to further delays and cause serious prejudice to the claimants, who have already approached the Court, seeking compensation even in the year 2021. Today, it would be unfair and unreasonable to direct the claimants to await a decision in the dispute between the plaintiff and the defendant and thereafter get due, fair and just compensation. If such an exercise is even undertaken, it would clearly defeat the very objects of the MV Act and therefore, I am not able to accede to the request made by the learned counsel for the appellant in this regard.

29.However, in so far as the second point for consideration is concerned, there can be no bar for the defendant to effect change of name in the records of the registering authority. Having not contested the suit filed by the appellant, it is not even open to the



defendant to contend that he has not purchased the vehicle. In any event, the counsel for the respondent, Mr.R.Selvakumar, has also fairly admitted to the fact that the defendant had purchased the vehicle from the plaintiff, after payment of the agreed price of Rs.4,50,000/-. In such circumstances, the relief in so far as mandatory injunction, directing the defendant to register his name in the records of the registering authorities can be granted to be plaintiff. However, the declaration that he is not the owner with effect from 09.09.2019 and that he is entitled to compensation of Rs.7,50,000/- are not available to the plaintiff. It is however needless to state that in the event of the plaintiff suffering awards before the Tribunal, then the plaintiff shall be at liberty, after settling the claimants, to seek reimbursement from the defendant, on account of the accident having occurred admittedly when the defendant was in possession and control of the vehicle. The dismissal of the suit and the denial of the relief of declaration as prayed for and the compensation amount will not come in the way of the appellant filing a suit for reimbursement of the award amounts that he may ultimately suffer and pay to the claimants in the various claim petitions. The points 1 to 3 are answered accordingly.

30.Result:

In fine, the Appeal Suit is partly allowed in the manner following:

(i) The judgment and decree of the trial Court insofar as the relief of declaration that the plaintiff is not the owner of the vehicle bearing Regn.No.TN-63-U-4845, with effect from 09.09.2019 is confirmed.



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(ii) The refusal of grant of mandatory injunction to the defendant to effect transfer of ownership of the suit vehicle in the defendant's name is set aside.

(iii) A decree of mandatory injunction is passed, directing the defendant to effect transfer of ownership of the suit vehicle bearing TN-63-U-4845 in his name, within a period of four weeks from the date of receipt of a copy of this judgment.

(iv) The dismissal of the suit in so far as the relief of compensation of Rs.7,50,000/- is confirmed.

(v) The plaintiff/appellant, in the event of suffering awards in MCOP.Nos.85, 86, 87, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 120, 11 and 122 of 2021 on the file of the Special Judge (MACT), Dharmapuri and MCOP.Nos.50, 51, 52 and 53 of 2021 on the file of the Sub Court, Palacode, and upon full satisfaction of the awards, would be at liberty to seek reimbursement of the same from the defendant and neither the judgment of the trial Court nor this judgment will come in the way of the appellant in seeking such reimbursement.

(vi) The parties shall bear their respective costs.

(vii) Connected Civil Miscellaneous Petition is closed.

13.02.2026

Neutral Citation Case : Yes

Speaking order

Index : Yes

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To

- 1.The Additional District Court, Dharmapuri.
- 2.The Special Sub-Court (MACT), Dharmapuri.
- 3.The Sub court, Palacode.



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P.B.BALAJI.J,

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