



A.S(MD)Nos.71, 79 & 80 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 19.02.2026

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

A.S(MD)Nos.71, 79 & 80 of 2022

and

C.M.P(MD)No.2833 of 2022

A.S(MD)No.71 of 2022:

- 1.Rajasundari
- 2.Leela
- 3.Vanaja
- 4.Soosaiyammal
- 5.Arulmani
- 6.Marutha Udayar

7.Singikulam Bharatha Ikkia Sandhai
Sangam, Reg. No.44/74
Through its President,
Valliyoor, Radhapuram Taluk,
Thirunelveli District.

- 8.Amalanathan (died)
- 9.P.D.P. Chinnathurai
- 10.P.D.P.Mohan
- 11.P.D.P.Stephen Subburaj
- 12.P.D.P. Velsraja
- 13.Thomas Gnana Antran
14. Thomas Gnana Arputha Raja
- 15.Thomas Gnanam

(AA14 & 15 are brought on record as LR's of the deceased A8 vide Court order dated 04.07.2024 made in CMP(MD)No.1579 of 2024)

... Appellants 1 to 13/Defendants 2, 4,



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5, 7, 19 to 21, 23, 32 to 35 & 43

-VS-

1.J.B.J.Vilvarayar
President, Singiulam Bharathakula Ikkia Sandhai
Valliyoor,
S/o Ponnusamy Vilvarayar,
Empearar Street, Tuticorin, VOC District.

Kashmir (died)

2.Stalin

.. Respondents 1 & 2 / Plaintiffs 1 & 3

(for themselves and for Bharathakula Community People)

Lurthu Ammal (died)
Ponnusamy Padaiyachi (died)

3.S.R.Anbarasu
4.Uthayan
Siluvai Durai (died)
Senthilvel (died)
Thomas Asari (died)

5.Murugan @ Raji
6.Nagamuthu
7.Thangaraj
8.Ponnu
9.Lakshmanan Asari
10.Vellapandian

Savarirajan (died)
Chellathai (died)

11.Bhuvanarani
12.Jasmine
13.Thomas
14.Antony
15.Eskaline Thomas
16.Ranjitham
17.P.D.P.Sekar
18.M.Malathi



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19.K.Jeya
20.Raimond
21.Kingslin
22.Mariya Gnanam
23.Katherintrini
24.Kanagamani
25.Latha
26.Sabarivalli
27.Kavitha
28.Jothi
29.Bagavathiyammal

..Respondents 3 to 29/
Defendants 6, 8, 12 to 15, 17, 18,
25 to 29, 31, 36 to 42 & 44 to 49

PRAYER: Appeal Suit is filed under Section 96 of Code of Civil Procedure r/w Order 41 Rule 1 of C.P.C to set aside the Judgment and Decree dated 28.01.2022 passed in O.S.No.50 of 2008 on the file of the IV Additional District Judge, Tirunelveli.

For Appellants : Mr.T.K.Gopalan
For Respondents : Mr.G.Rajagopalan
Senior Counsel for
Mr.L.P.Maurya for R1 & R2

A.S(MD)No.79 of 2022:

1.T.Leela
2.I.Vanaja

... Appellants/Plaintiffs

-VS-

1.M.A.Rouben
2.K.Antonysamy
3.M.Reymon
4.Innasi



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Zacharias (died)
5.M.C.A.Manrose

..Respondents 1 to 5/
Defendants 2 to 5 & 7

PRAYER: Appeal Suit is filed under Section 96 of Code of Civil Procedure r/w Order 41 Rule 1 of C.P.C to set aside the Judgment and Decree dated 28.01.2022 passed in O.S.No.108 of 2008 on the file of the IV Additional District Judge, Tirunelveli.

For Appellants : Mr.T.K.Gopalan

For Respondents : No appearance for R3

A.S(MD)No.80 of 2022:

Lourdammal (died)
G.R.Savari Rajan @ Rosari Savari Rajan (died)
G.John Amalanathan (died)
2.Vanaja
3.Thomas Gnana Arputha Raja
4.Thomas Gnanam
(AA2 to 4 are brought on record as LRs of the deceased sole appellant vide court order dated 02.12.2024 made in CMP(MD)No.1703 of 2024)

... Appellants/Plaintiffs

-VS-

Savaria Pichai Fernando (died)

1.M.A.Rooban
2.K.Antonyamy
3.M.Reymond
4.Innasi
Zacharias (died)



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5.M.C.A.Manrose

Michael French (died)

6.Innasi

Lourdu Marian @ Mookan (died)

Michael Antony Cruz @ Ponniah Fernando (died)

7.M.Chellathai

8.J.Buvana Rani

9.J.Jasmine

10.J.Thomas

11.J.Antony

12.G.Eskaline Thomas

13.Raymond

14.Kingslin

15.Maria Gnanam

16.Catherine Trenee

17.Michael Rubal Roja @ Saroja

18.Arivarasu

19.Madhiarasi

20.Anbarasi

..Respondents 1 to 20/

Defendants 2 to 5, 7, 9, 12 to 17, 19 to 26

PRAYER: Appeal Suit is filed under Section 96 of Code of Civil Procedure r/w Order 41 Rule 1 of C.P.C to set aside the Judgment and Decree dated 28.01.2022 passed in O.S.No.109 of 2008 on the file of the IV Additional District Judge, Tirunelveli.

For Appellants : Mr.T.K.Gopalan

For Respondents : No appearance for R3, 12 & 18

COMMON JUDGMENT

R.KALAIMATHI, J.



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A.S(MD)No.71 of 2022 has been preferred by the 13 defendants out of 46 defendants (Rajasundari and 12 others) against the Judgment and Decree dated 28.01.2022 passed in O.S.No.50 of 2008 on the file of the IV Additional District Court, Tirunelveli.

2. A.S(MD)No.79 of 2022 has been preferred by the plaintiffs 1 and 2 against the Judgment and Decree dated 28.01.2022 passed in O.S.No.108 of 2008 on the file of the IV Additional District Court, Tirunelveli.

3. A.S(MD)No.80 of 2022 is preferred by the plaintiffs against the Judgment and Decree dated 28.01.2022 passed in O.S.No.109 of 2008 on the file of the IV Additional District Court, Tirunelveli.

4. There are as many as five suits were tried together. Out of which, four suits were transferred from the District Munsif Court, Valliyoor and tried together. Common evidence was recorded in O.S.No. 50 of 2008 and the impugned judgment was pronounced by the trial Court.



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5. At the first instance, two suits were filed before the Principal District Munsif Court, Valliyoor in O.S.No.1363 of 1988 and in O.S.No. 1365 of 1988 for permanent injunction thereby to restrain the defendants, their men and agents from in anyway interfering with the peaceful possession and enjoyment of the plaintiffs, the details of which, are as follows:

- O.S.No.1363 of 1988 was filed by Leela and Vanaja who are the purchasers of the property. O.S.No.1365 of 1988 was filed by Lurthuammal, who is the purchaser from the registered Society, Singikulam Bharathakula Ikkia Sandhai Sangam (herein after referred to SBIS Sangam). Both the suits were taken on file by the Trial Court in O.S.No.108 of 2008 and 109 of 2008;
- O.S.No.439 of 1994 was filed before the District Munsif Court, Valliyoor for the relief of declaration that the first schedule of property belongs to the Bharatha Kula People and for mandatory injunction to remove the constructions made in 2nd and 3rd schedule property by defendants 2, 4, 5 as well as by 6th defendant through 31st defendant;
- The said suit is transferred to the Trial Court and taken on file in O.S.No.50 of 2008;
- O.S.No.1363 of 1988 and O.S.No.1365 of 1988 were originally



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dismissed by the Principal District Munsif Court, Valliyoor on 28.02.1994. On appeal before the Principal Sub Court, Tirunelveli, the Principal Sub Judge, Tirunelveli, remanded both the suits by Judgment in A.S.No.33 of 1994 dated 17.07.1996 with a direction to try these suits along with O.S.No.439 of 1994 filed for the relief of declaration of title and permanent injunction by the Bharatha Kula Community People;

- The plaint in O.S.No.439 of 1994 was returned and presented before the Principal District Court, Tirunelveli on 19.03.2008 as per Order passed by this Court in CRP(PD)No.2322/2003 dated 07.03.2008. O.S.No.439 of 1994 was taken on file by the Principal Sub Court, Tirunelveli as O.S.No.50 of 2008. O.S.No.1363 of 1988 and 1365 of 1988 which were pending before the Principal District Munsif Court, Valliyoor, were ordered to be transferred to the Principal District Munsif Court, Valliyoor and assigned with the numbers O.S.No.108 of 2008 and O.S.No.109 of 2008;

- In the meantime, yet another suit in O.S.No.87 of 2002 was filed by SBIS Sangam against the State as well as some persons to cancel the patta granted in respect of the suit property and to order to grant patta in the name of the plaintiff Society; O.S.No.87 of 2002 was also transferred to the Principal District Court,



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Tirunelveli in O.S.No.110 of 2008.

- As per order passed in Tr.O.P.No.141 of 2014 dated 09.04.2015, the partition suit in O.S.No.72 of 2013 before Principal District Court, which was filed by the legal heirs of Lourdammal, transferred to be tried jointly with O.S.No.50 of 2008 (O.S.No.439 of 1994);
- For all the five suits, evidence was recorded in O.S.No.50 of 2008 (O.S.No.50 of 2008, O.S.No.108 of 2008, O.S.No.109 of 2008, O.S.No.110 of 2008 and O.S.No.72 of 2013).

O.S.No.50 of 2008:

6. Suit for declaration of title that the first schedule of property belongs exclusively to the Bharath Kula Community People as well as for consequential permanent injunction that the defendants 1 to 7 or their men and agents not to interfere with the peaceful possession and enjoyment of the property by the plaintiffs, for mandatory injunction thereby to direct the defendants 2, 4, 5 to hand over possession after removing the constructions made in the suit property and for recovery of possession of the property from the 6th respondent in respect of 3rd schedule property.



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7. According to the plaintiff nos.1 to 3, extent of the suit property is 2.73 acres in S.Nos.1196/1 and 1196/2 situate at North Valliyoor Village, Radhapuram Taluk, Tirunelveli District. Earlier, Bharatha Kula Community People were doing business in dried fish having centre of business at Singikulam. Before the year 1909 for the upliftment and welfare of Bharatha Kula Community people, they formed Society, but it was not registered. Originally, the property belonged to Ponnankonar and Vairamuthuammal. The entire property was purchased for the Society for valuable consideration under two sale deeds dated 20.05.1935 and 29.06.1936 by the then President Periyannayakam Swamy and Joseph Roche, who were the Pastors at that point of time. The Society was started for the welfare of the community and it was under the management of Bishop of Thoothukudi. Bharatha Kula Community People purchased the property at various places and only because they needed land/property at Valliyoor, the suit property was purchased in the names of Pastors who were the persons administering the Society. Till date, the Society has been functioning with the plaintiffs at its helm. In the year 1990, the father-in-law of 5th defendant, Gnanaboopalarayar had registered a Society resembling the name of the plaintiff Society. The said Society is no way connected to the plaintiff Society. On the basis of registered Society resembling the name of the



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plaintiff Society, father-in-law of the fifth defendant created records, as if, the suit property belongs to the particular Society registered by him and created documents.

7.1. In the year 1988, the first defendant, Lourdammal and her son John interfered with the business activities of the plaintiffs' community people in the suit property. First defendant Lourdammal claimed that she purchased the suit property. At that point of time only, it came to be known that the President of Society, the 21st defendant executed a sham and nominal sale deed in favour of his wife, first defendant with the intention that the factum of sale must not be made known to the public and it was effected in the State of Kerala. The sale is not valid and will not bind the plaintiff Society. Sale is against the provision of Section 28 of Indian registration Act. The first defendant created various documents and encumbered the property to various persons.

7.2. The first defendant had filed a suit in O.S.No.1365 of 1988, as if she was in possession of the suit property and similarly, defendants 4 and 5 filed O.S.No.1363 of 1988. Both the suits were dismissed on merits by the Principal District Munsif Court, Valliyoor. On



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the basis of the sale made by the defendant nos.4 and 5, they had constructed a school in a portion of the suit property. The third defendant claims to have purchased 0.05 cents of land from the first respondent. The sale in the name of the first defendant/Lourdammal is not valid and hence, the sale in the name of the defendants 3 to 5 would not confer any title to them.

7.3. The defendants 6 and 7 claimed to have purchased the portion of the property and the sale deeds are sham and nominal. Defendants 8 to 20 are the tenants in the suit property and they have not paid rent for past 6 months and they claimed that the property belongs to defendants 1, 4 and 5. Upon death of the first defendant, her legal heirs were brought on record as Defendants Nos.22 to 30. Defendant No.9 passed away leaving behind no legal heirs. After the defendant No.21 Society was registered as 44/74, no property was purchased subsequently. Defendants No.1, 4 to 7 have proclaimed that they have raised new constructions in the property.

7.4. All community people are spread out and the suit is filed in representative capacity, with the intention to safeguard the property and for the benefit of entire community people. Defendant No.22 died without any issues. Defendants No.23, 29 and 30 are the brothers of



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defendant no.22. Defendants No.25 to 28 are the children of another deceased person brother of Jayaraj. Defendant No.3 passed away during the pendency of the suit and his legal heirs are defendants no.32 to 38. Defendant no.30 died and his legal heirs were impleaded as defendants no.39 to 42. Upon application filed by the defendants no.43, he was impleaded as legal representative of Defendant No.22. Defendant No.15 is no more and his legal heirs were impleaded as Defendants No.44 to 49. Second plaintiff who filed the suit in representative capacity is no more. Hence, the suit.

8. Per contra, the Defendant Nos.1, 3, 4, 5 to 13, 14, 15, 16, 18, 19, 20, 41 and 43 would *inter alia* contend that the plaintiffs have no right to represent the members of the Bharatha community. There is no Society in existence by name, Singikulam Bharathakula ikkia Sandhai. The said unregistered Society was not functioning at Valliyoor after it was registered in the year 1974. The suit property is situated at Valliyoor and number of buildings have been constructed even prior to the filing of the suit. The suit property is not punja land. Bharatha community is a fishermen community and most of them are doing business in the sea using country boats. This community is not a business community and no Society was established prior to 1909.



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8.1. Unregistered Ikkia Sandhai was established by the members who were doing business in dried fish. The entire Bharatha community have right over the unregistered Society with regard to the suit property filed in O.S.No.169 of 1990. The funds of the Bharatha Community were never utilized to purchase plaint schedule property. The properties were purchased by two persons Periyannayagam and Joseph Roche as President of unregistered Society and not on behalf of the members of the Bharatha Community.

8.2. The unregistered Society was in exclusive and absolute possession of the suit property. It is incorrect to state that the unregistered Society was working under the supervision of the Bishop of Tuticorin. Patta was issued in name of unregistered Society in patta No. 217. This Society was registered in 1974 in registration No.44/74 and after the said registration, the suit schedule property continued to be in possession and enjoyment of the Society. Name of the registered Society is mentioned in patta No.217. Patta number was subsequently changed to Patta No.898. Sangam was running a fish market in Door No.299 in a portion of the suit property. Licence to run the fish market is being issued by the Vadakku Valliyoor Panchayat.



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8.3. One item of property in O.S.No.169/1990 ought to have been fabricated by the plaintiff to put forward false claim. This particular Society which was unregistered, was established and administered by its members. The property was purchased out of the funds of the unregistered Society. This Society was registered in 1974 in Registration No.44/74 under the name Singikula Baratha Ikkia Sandhai Sangam.

8.4. On 18.06.1985, resolution was passed by the Sangam. In order to discharge the debts, the suit properties were sold to the first defendant for a sum of Rs.10,000/- through registered sale deeds. Suit in O.S.No.1376 of 1988 was filed by the Society as against the defendants and others to declare the sale deed as valid, was dismissed by this Court and the said judgment has become final. The plaintiffs have no right to dispute the sale effected in favour of the first defendant. The members of the Sangam were from the Bharatha Community and therefore, they are bound by the decree. The Sangam and its President filed suit in O.S.No.137 of 1988 before Sub-Court, Tirunelveli against Savaria Pitchai and others and in I.A.No.250 of 1988, wherein, they had admitted that the title of properties is vested with the first defendant.



Market is being run by the Sangam and not by the Bharatha community.

8.5. The first defendant filed two suits (O.S.No.1363/88 and O.S.No.1376/88). Savaria Pitchai Fernando, the Ex-President, under whose Presidentship resolution was passed to sell the suit properties in order to discharge the debts incurred from Siluvai Kitherian. The Minutes Book of the Sangam is being verified by the Officials of the Office of the District Registrar, Tirunelveli. The accounts are also regularly being audited and submitted to District Registrar of Societies. The plaintiffs in O.S.No.1376 of 1988, the defendants in O.S.No.137 of 1988, O.S.No.1363 of 1988 and O.S.No.1365 of 1988 have collusively filed these suits to grab the properties.

8.6. The defendants who have purchased the property from the first defendant have put up constructions. The sale deed executed by the first defendant in favour of defendants 2 to 7 and others are valid and the plaintiffs cannot question the same. The unregistered Society Singikulam Bharatha Kula Ikkia Sandhai is not in existence after it was registered. There is no whisper as to the details of the members of the unregistered Society and how the Society is being administered. The



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plaintiffs are not members of the unregistered Society which is not in existence after it was registered in 1974.

9. As far as the defendants 1 to 5 and 10 to 16 and 18 to 20, they would *inter alia* contend that there is no Sangam by name Singikulam Bharatha Kula Ikkia Sandhai and it is an imaginary one. The entire Bharatha community has no right or interest through unregistered Society. Only members have right over the Society and its properties. Property was purchased out of funds of unregistered Society and not on behalf of members of the Bharatha Community. Patta stood in the name of unregistered Society in Patta No.270 and it was registered in the year 1974 in the name of Singikula Bharatha Ikkia Sandhai Sangam under Patta No.44/74. The defendants have every rights to put up construction in the property purchased by them from the first defendant. The second defendant is entitled to divide an extent of 0.15 cents of land with definite boundaries in S.No.1196/1. Another defendant had purchased 0.10 cents of land, a portion of northern 0.15 cents under registered sale deed dated on 23.03.1986 for Rs.10,000/- executed in her favour by the first defendant1/Lourdammal. The remaining 0.05 cents of land was purchased under the registered sale deed dated 21.11.1987 executed by the first defendant.



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9.1. The purchasers and their predecessor in title have been in possession of the property for more than 30 years prior to the filing of the suit. The second defendant has constructed a pucca house in the said 0.15 cents of land in 1986. The construction in the northern portion was started in 1986. The plaintiffs have filed the suit after the completion of construction. The plaintiffs are estopped from contending that they are the owners of the suit property. In 2004 on the southern portion of 0.15 cents, construction was made. The entire constructions in 0.15 cents are houses bearing Door No.307, 307A and 257A, as well as shops bearing Door Nos.257 B, 257C, 257D, 257E, 257F, 257G and 257H.

10. Whereas, the third defendant has filed written statement and it was adopted by the defendants No.32 to 35. The additional written statement of defendant 32 was adopted by defendants 33 to 35. The third defendant would *inter alia* contend that the first plaintiff has no right to file any suit claimed to be President of the Society, as if the Society is in existence. The unregistered original Society is not functioning at Valliyoor after it was registered in 1974. There is no Society by name Singikulam Barathakula Ikkia Sandhai in existence.



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11. The defendants 6 and 31 would *inter alia* contend that the suit schedule property originally belonged to the defendant no.21 which is a registered Society. The suit schedule property was sold to Lourdammal through sale deed dated 18.06.1985 in pursuance of a resolution. The 3rd item of suit property was purchased by the 31st defendant from the said Lourdammal through her power agent G.R.Savari Rayan through sale deed dated 30.04.1993 and since then, he has been in possession and enjoyment. Defendant No.6 is the son of the defendant no.31 and he is a practicing lawyer at Valliyoor and has been running office in the building available in the 3rd schedule of property in Door No.300. Defendant no.31 also purchased land on 31.05.2004 to an extent of 640 sq.ft with specific boundaries in the eastern portion of 3rd schedule of property from G.R. Savari Rayan and John Amalanathan S/o Lourdammal who have got right over the property under a registered will executed by Lourdammal in favour of her sons in Doc.No.22/1989. Since then the 31st defendant has been in possession and enjoyment of the suit property and the relief sought for in the plaint are barred by limitation. The earlier suit O.S.No. 1376 of 1988 filed for cancellation of sale deed executed in favour of Lourdammal was dismissed on 12.10.1992 and hence, the present suit is hit by *res judicata*.



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12. The details of the additional written statement filed by defendant No.23 and adopted by defendant Nos.4, 5, 7, 9, 19 to 21, 22, 24 to 30, are as follows:

The suit schedule property originally belonged to 21st defendant which is a registered Society. On the basis of a resolution passed by the said Society, the property was sold to first defendant/Lourdammal in 1985. The defendants who have purchased the property from the said Lourdammal, have constructed buildings even in the year 1988. Therefore, the title claimed by the plaintiffs was denied even in the year 1985. Three persons, who are close associates of the plaintiffs filed O.S.No.1376 of 1988 to cancel the sale deed executed in favour of the first defendant. The said suit was dismissed on 12.10.1992 and the present suit is barred by *res judicata*. The property was purchased by the first defendant from registered Society to settle the loan on the strength of the resolution passed by General Body of the Society. The suit filed by the persons claiming to be the representatives of the members of the Society was dismissed. The plaintiffs are utter strangers to the said Society. When the plaintiffs came to know about the sale in the year 1988, the suit has been filed only in the year 1994 and it is barred by limitation. Defendant no.22 executed Will dated 06.09.2011



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in favour of the defendant no.43, who is the only legal heir and upon his death after 27.09.2011, it came into effect.

13. Details of the additional written statement filed by second defendant, are as follows:

The description of suit property is vague. The first schedule of suit property can never be identified. In the second schedule of property, buildings were constructed in 0.33 cents of land. At the time of construction, the plaintiffs never raised their fingers objecting the same.

O.S.No.108 of 2008 :

14. Suit is filed for the relief of permanent injunction to restrain the defendants, their men and agents from interfering with the plaintiff's peaceful possession and enjoyment of the suit property and for costs.

15. According to the plaintiffs/Leela and Vanaja, the suit properties and other properties originally belonged to Singikulam Baratha Ikkia Sandhai Sangam, registered in No.44/74. The sangam incurred debts for the welfare of the members and on the basis of resolution dated 24.06.1983 in order to discharge those debts, due to Siluvai kitheriyan to the tune of Rs.13,900/-, by selling the suit schedule



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of property to Lourdammal for valuable consideration on 08.06.1985. The said Lourdammal sold the suit schedule properties to the plaintiffs on 11.06.1988. The plaintiffs applied for construction approval in order to raise constructions to run a school by name Indira Memorial Matriculation School. Now, the constructions have been made up to the ceiling level. The defendants who have no right, title, interest over the suit schedule property are attempting to interfere with the plaintiff's peaceful possession and enjoyment. Hence, the suit.

16. Per contra, the defendants would *inter alia* contend that the property was originally purchased for Singikulam Barathar Ikkia Sandhai in 1936. The Society never purchased the property. Therefore, the Society which was registered under No.44/74 could not have owned this property. The details offered in the plaint to the effect that the Society incurred debts and paid all the debts based on the resolution, the property was sold to Lourdammal are invented for the purpose of the suit. The Society never borrowed any sum from anybody and the fact that the debt of Rs.13,900/- was incurred is incorrect. After filing of the suit, the plaintiffs had encroached upon the properties illegally. Only in order to defraud the Bharathakula Community people, the property was sold and the plaintiffs are acting as against the interest of the said



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Community. The Sale Deed executed in favour of Lourdammal on 18.06.1985 is not valid. The subsequent sale in favour of the plaintiffs are also not valid. The sale dated 18.06.1985 was registered at SRO of Parasalai Town, State of Kerala. Society with the registration No.44/74 does not own any property at Parasalai, Kerala. In the suit schedule property, there is dry fish market and till date, it is being run in the suit property.

O.S.No.109 of 2008 :

17. Suit is filed for the relief of permanent injunction to restrain the defendant from in any way interfering with the plaintiff's peaceful possession and enjoyment of the suit property and for costs.

18. As there are as many as 26th defendants and some of the defendants during the pendency of the suit, died and the said facts have been recorded.

19. According to the plaintiffs 1 to 3, the suit property originally belonged to Singikulam Barathar Ikkia Sandhai Sangam and registered as 44/74. The Sangam was in exclusive possession of the property. In order to discharge debt of Rs.13,900/- due to Siluvai Kitherian based on



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a resolution dated 24.06.1983, the property was sold to the plaintiff for a valuable consideration on 18.06.1985. Since then the plaintiff has been in possession and enjoyment of the suit property. A portion of the property purchased by the plaintiffs was sold to Leela and another. Buildings have been constructed in the suit property. The defendants have no right and title to interfere with the plaintiffs' possession. Hence, the suit.

20. The 7th defendant has filed his written statement and adopted by other defendants.

The suit property originally was purchased for Singikulam Barathakula Ikkia Sandhai in the year 1936. The Society never purchased the suit property. The Society was registered in No.44/74 could not have owned this property. When the property was never owned by the Society in No.44/74, it cannot encumber the property and the plaintiff cannot claim right over the said property. The averments in the plaint that as if, the Society in No.44/74 had incurred debts, that a resolution was passed to sell the property and subsequently, the property was sold to Lourdammal have been created for this suit. This Society had never borrowed any sum from anybody and the fact that debt of Rs.13,900/- was incurred is false. The plaintiff was never in



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possession of the property. Only after filing of this suit, the plaintiff had encroached upon the properties illegally and under the guise of an injunction the construction was raised. Only in order to defraud the Bharathakula community, with a bad intention, the property has been sold and these persons are acting as against the interest of the said Community. The sale deed in favour of Lourdammal on 18.06.1985 is not valid. The sale dated 18.06.1985 has been registered at SRO of Parasalai Town, State of Kerala. The Society in No.44/74 does not own any property at Parasalai Village and no resolution was passed to the effect that the property belonging to the Society in Parasalai Village has to be sold. The 2nd schedule of property referred in sale deed (executed in 1985) never exists in Parasalai Village and a fictitious property has been included just to get the sale deed registered at Parasalai (State of Kerala) including the suit schedule of property. On this basis also, the sale effected in 1985 is not valid and it has been created by the person who had no right over the suit property. The defendants no.1 and 2 are commission agents doing business while the other defendants are Barathakula community people. In the suit schedule of property, there is dry fish market and till date, business is being done in the property. There cannot be a permanent injunction to restrain these defendants when the business is still going on in the suit property. The discretionary



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relief is claimed for a property purchased on the basis of an invalid document and hence, this relief cannot be granted and sought for dismissal of the suit.

21. The details of the written statement filed by defendant no.19 and adopted by defendants no.20 to 22 are as follows:

Lourdammal died intestate on 21.10.1997 leaving behind her five sons. Her son, by name, Jeyaraj predeceased his mother Lourdammal leaving behind her four children. Her another son Maria Doss died on 12.01.2013 leaving behind four persons. Her another son Rosary Savari Rayan died on 27.09.2011 without any issues and the undivided share of Rosary Savari Rayan devolved upon the defendants 2 and 3. 6th defendant Zacharias died leaving behind his wife Vasantha and one son Elango. First defendant Savaria Pitchai Fernando passed away leaving behind Saroja, Pappa, Kasthuri and Chandra. Lourdu Marian @ Mookan passed away leaving behind a son and three daughters. 11th defendant Michael Antony Cruz @ Ponniah Fernando died leaving behind three legal heirs. Legal heirs are necessary parties to the suit. Suit is bad for non-joinder of necessary parties. Suit filed by the plaintiffs against the co-owners for bare injunction is not maintainable.



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22. Based on divergent pleadings, the Trial Court framed the relevant issues. At trial, on the plaintiff's side, two witnesses have been examined (P.W.1 – Stalin (3rd plaintiff), P.W.2 – Mariyanavis) and eight documents have been marked. On the 2nd defendants' side, one witness has been examined (Rajasundari/second defendant) and eleven documents have been marked. On the side of the defendants no.3, 32 to 38, one witness has been examined (Chinnadurai/32nd defendant) and four documents have been marked (Exs.12 to 15). On behalf of the defendants no.22 and 43, two witnesses have been examined (Thomas Gnana Anton Raj (43rd defendant), Ravi (Attestor of Will/Ex.B16) and eleven documents have been marked (Exs.B16 to B27). On behalf of defendants no.4, 5, 7, 19 to 21, 23, four witnesses have been examined (John Amalanathan/defendant 23), Micheal Roche Kennedy, Balasubramanian and Natarajan) and Exs.B28 to B167 have been marked. On behalf of defendants no.29, 39 to 42, one witness has been examined (Antony Arnold/29th defendant's son) and Exs.B168 to B191 have been marked. Advocate Commissioner's report dated 31.03.2023 is Ex.C1.

23. The Trial Court framed necessary issues for all the five suits (O.S.No.50 of 2008, O.S.No.108 of 2008, O.S.No.109 of 2008, O.S.No.



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110 of 2008 and O.S.No.72 of 2013). Trial Court upon consideration of oral and documentary evidence, after hearing arguments advanced by either side, decreed the suit in O.S.No.50 of 2008 and chose to dismiss O.S.No.108 of 2008 and O.S.No.109 of 2008 filed for the relief of injunction.

24. Among all the suits, O.S.No.50 of 2008 is filed for larger relief of declaration of title and for mandatory injunction to remove constructions made thereon. Common evidence was recorded in O.S.No.50 of 2008 Judgment in common was pronounced for all the 5 suits. O.S.No.108 of 2008 and O.S.No.109 of 2008 have been filed for the relief of permanent injunction by the purchasers alleged to have purchased a portion of the property in O.S.No.50 of 2008. Against the judgment passed in the above three suits, these three appeals namely, A.S.No.71 of 2008, A.S.No.79 of 2002 and A.S.No.80 of 2002 have been filed. O.S.No.108 of 2008 was filed by the same President of Singikulam Bharata kula Ikkia Sangam, Valliyur for cancellation of patta and for issuance of fresh patta in the name of Society. Whereas O.S.No.72 of 2013 filed for the relief of partition between the legal heirs of Lourdammal, W/o. Gnanaboopalarayar and as well as the purchaser of the property from Lourdammal or from her sons.



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25. At trial, in O.S.No.50 of 2008, third plaintiff in the said suit namely, Stalin has been examined as P.W.1 and yet another witness Mariyanavis has been examined as P.W.2 and Exs.A1 to A8 were marked. During cross examination of P.W.1 and P.W.2, Exs.B1 to B3 were marked. On the defendants' side, 2nd defendant Rajasundari has been examined as D.W.1. Through her, Exs.B4 to B11 were marked. On behalf of defendant Nos.3, 32 to 38, defendant No.32, Chinnadurai has been examined as P.W.2. Through him, Exs.B12 to B15 were marked. P.W.3 is Thomas Gnana Anton (Defendant No.43). Through him, Exs.B16 to B27 were marked. Defendant No.22 was examined as DW4 (Ravi) in the capacity of attesor to the Will (Ex.B16). D.W.5 is John Amalanathan (Defendant No.23) and through him, Ex.B28 to Ex.B163 were marked. Micheal Roche Kennedy, who is the son of attesor to the Will Ex.B129 executed by Lourdammal, was examined as D.W.6. Through him Ex.B164 and 165 were marked. Son of another attesor to the Will Ex.B129 one Balasubramanian was examined as D.W.7. Through him, Exs.B.166 and B167 were marked. D.W.8, Natarajan, is the scribe to the Will (Ex.B129). Antony Arnold, son of defendant no.29 in O.S.No.50 of 2008 was examined as D.W.9 and through him, Exs.B.168 to B.191 were marked. The report of the



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Advocate Commissioner is Ex.C1. Totally, there are five suits and common evidence was recorded in O.S.No.50 of 2008.

26. For the sake of convenience, parties are indicated herein as per their litigative status before the Trial Court in O.S.No.50 of 2008.

O.S.No.50 of 2008:

27. The Trial Court, upon consideration of evidence and after hearing the arguments advanced by the learned counsel appearing on either side, the suit was decreed by declaring the title of the first schedule of property in favour of Bharatakula community and order of permanent injunction not to interfere with peaceful possession and enjoyment of the property by Bharata Kula community was granted as against defendants No.1 to 7, their men and agents and mandatory injunction against defendant Nos.2, 4 and 5 to remove the constructions made in second schedule of property within two months and to hand over vacant possession of the same to the first plaintiff/Bharatakula community. A direction was also given against defendant No.31 through whom defendant No.6 is in possession, ordered to hand over possession of third schedule of property within two months to the first plaintiff/Bharatakula community.



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28. O.S.No.108 of 2008 & O.S.No.109 of 2008 which laid for the relief of permanent injunction, restraining the defendants from anyway interfering with the peaceful possession and the enjoyment of the property was dismissed.

29. The learned counsel for the appellants in A.S.No.71 of 22 (O.S. No. 50 of 2008) would strenuously argue that the Trial Court without any material witnesses to prove the fact that the plaintiff unregistered Society is in existence and representing Bharatha Kula community. He would further contend that the plaintiff Society is unregistered Society and whereas defendant No.21, Sangam is a registered one and in particular, the Sangam passed a resolution to the effect that in order to discharge the debts of the Sangam, the suit property was sold. First of all, the plaintiffs failed to prove the fact that plaintiff Santhai purchased the suit properties and plaintiff has been in possession and enjoyment of the suit property. Patta issued in the name of defendant No.23, registered Sangam was not taken into account by the Trial Court. The first plaintiff Santhai was not in possession and enjoyment of the suit property. In order to repay the debts of the Society, the suit property was sold to Lourdammal by the defendant No.



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21 registered Society and to that effect, resolution was also passed.

These details were not properly appreciated by the Trial Court. Subsequent sales effected by first defendant Lourdammal namely Exs.B30 and B42 were executed by her after proper resolution passed by the registered Society. As per Ex.B83- Resolution Book, it is made clear that the plaintiff Santhai was never registered and only panchayat was registered by Gnanaboopalarayar in registration No.44/74. The Trial Court's finding to the effect that the intention of the then President of the Society, namely Gnanaboopalarayar was not *bonafide* and he treated the property of the Sangam as his own, is the finding given without any basis and incorrect. He would further contend that Gnanaboopalarayar had tenacity to sell property on behalf of the Sangam as per his wish is totally without any evidence. It is his further argument that the said person had been holding the post of President before registration of the Society and after registration of the Society for three decades was not properly appreciated. The trial Court did not appreciate the revenue document to prove the possession and enjoyment of the suit property by the Sangam, the defendant No.21. He would further contend that the suit property is not properly described in the plaint schedule and hence, it is liable to be dismissed.



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30. Per contra, the learned counsel for the first and second respondents/plaintiffs would vehemently argue that the suit property belonged to the plaintiffs Society and not Society registered in 1974. About the unregistered Society and registered Society, caution notice was issued in Dinamalar Newspaper on 30.03.1990 in Ex.A5, would amply prove the fact that the registered Society manipulated the records and the properties. He would further contend that Ex.A5 also clearly indicates that the unregistered Society continued in existence after 1974. Then President Gnanaboopalarayar misused his position and the confidence reposed on him by the members of Bharathakula Community and frequently transferred the suit property in the name of his wife and she, in turn, made further encumbrances, which would go to show that the said Gnanaboopalarayar acted in excess and his members of the community. As the sale deed in the name of Lourdammal was registered on 18.06.1985 under Ex.A4, not in the Sub Registrar Officer at Valliyoor but in Kerala, it would amply prove the fact that then President Gnanaboopalarayar perpetuated from fraud by transferring Society property in his wife's name. In order to strength the sale Ex.A4, in the minutes book Exs.D49 and D83 manipulations have been done, which is correctly appreciated by the Trial Court and the sale deed is vitiated from their avoid *ab initio* and set aside. The learned



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counsel would finally state that based on the aforesaid reasons, the Judgment of the trial Court is sustainable in law and sought for dismissal of the appeals.

31. Point for consideration:

AS.(MD)No.71 of 2022 [O.S.No.50 of 2008]:

(i) Is the trial Court correct in law in granting relief of declaration in favour of plaintiff's Society?

(ii) Is the plaintiff's Society entitled for the relief of permanent injunction?

(iii) Whether the trial Court is correct in law in granting relief of mandatory injunction as against defendants Nos.2, 4 and 5?

(iv) Whether the plaintiff's Society is entitled for the relief of recovery of possession of the 3rd schedule property from defendant Nos.6 through defendant No.31?

(v) Whether the plaintiff's unregistered Society and the defendant No.21 Society are different or not?

(vi) Whether the sale effected on behalf of plaintiff's Society in favour of 1st defendant on 18-06-1985 is true and valid document or not?



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32. AS.(MD)No.79 of 2022 (O.S.No.108 of 2008):

(i) Whether the trial Court was correct in law in granting permanent injunction in favour of plaintiffs?

(ii) Whether there is no cause of action for the appellants/plaintiffs to file the suit?

33.A.S.(MD)No. 80 of 2022 (O.S.No.109 of 2008):

(i) Whether the trial Court was correct in law in granting permanent injunction in favour of plaintiffs?

(ii) Whether there is no cause of action for the appellants/plaintiffs to file the suit?

34. The third plaintiff Stalin, one of the members of the Bharathkula community has been examined as P.W.1. He has filed the proof affidavit in the line with the details of the plaint. During the cross examination of PW1, he would state that when the construction work was started in the suit property only, they raised objections and filed the suit. It is seen from the evidence of P.W.I that even for payment of Court fee, it was collected from all the members of the plaintiff Society, namely, Singikulam Bharathaakula Ikkia Santhai, Valliyoor. In fact, the unregistered Society, which was formed initially, was registered by



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Gnanaboopalarayar in the year 1974. In the years 1935 and 1936, the suit properties were purchased by Pastor Periyamayakam Swamy and Joseph Roche for the welfare of Bharathakula Community is not in dispute. It is pertinent to note that P.W.1 would state that he is not member of defendant No.21 Society. It appears that after the Society was registered, the first defendant Lourdammal's husband Gnanaboopalarayar was holding the post of President of the Society for long period.

35. The core issue is that the suit property was purchased through Exs.A1 and A2 sale deeds dated 20.05.1935 and 29.06.1936 in the name of the plaintiff Society. The plaintiff's case is that their Society has been functioning long before Ex.A1 and similar Society was registered in the year 1974 and the suit property under Exs.A1 and A2 remained with them. It is the further case of the plaintiffs that the suit property was purchased for the welfare of entire Bharathakula Community, namely, plaintiff Society and there is no record to show that the property purchased by plaintiff Society was taken by the defendant No.21 Society.

36. It is the case of the first defendant Lourdammal that she



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purchased the suit property from the registered Society No.44/74 as per Exs.B30 (Ex.B4). It is pertinent to note that the sale deed was executed by Gnanaboopalarayar in the capacity of Secretary of Society in favour of his wife Lourdammal (first defendant).

37. In respect of Ex.B30- Sale Deed, the relevant resolution of defendant No.21 Society is Ex.B42, wherein resolution has been passed to sell the suit property in favour of first defendant and it has been mentioned that in order to pay off the debts due to Siluvai Kitherian, which is due for the past 15 years, the amount was paid by Gnanaboopalarayar and he was permitted to effect sale in the name of his wife as he repaid the debts of Society. The said Silvai Kitheriyan is co-brother of Gnanaboopalarayar.

38. Under UDR Scheme, patta was granted in favour of Gnanaboopalarayar as Secretary of Society. On perusal of the evidence of both sides, as well as the exhibits marked on either side, the major issue crops up only in the year 1985, especially, after execution of sale by Gnanaboopalarayar the then secretary in favour of his wife, Lourdammal in respect of suit property (18.06.1985).



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39. The plaintiffs laid the claim only based on Exs.A1 and A2, whereas the first defendant, Lourdammal and her legal heirs claimed title over the suit property based on Ex.B30 sale deed, when the other defendants laid claim based on Exs. B4 and B5.

40. The first and foremost point is that the plaintiffs do not have any right to lay a claim on behalf of the unregistered Society. But the same is refuted by the plaintiffs and the counsel for the respondents/plaintiff would strenuously contend that, on behalf of the plaintiffs, an application under Order 1, Rule 8 C.P.C was filed and on due enquiry, the said petition was ordered.

41. On perusal of the records, it is seen that the plaintiffs had filed application under Order I Rule 8 C.P.C and the same has been allowed. Based on the Order passed in the said interim application, it should not lie in the mouth of the defendants that the plaintiffs do not have any right to file the suit.

42. The name of the plaintiff unregistered Society is Singikulam Bharatha Kula Ikkia Santhai. Whereas, the defendant No.21 Society which is represented by its President, the defendant No.23, John



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Amalanathan, is a registered Society.

43. The next issue is that the plaintiff Society is no more in existence. The plaintiff Society is subsequently registered and now functioning as defendant No.21 Society. For this contention put forth by the defendants, on the plaintiff's side, Ex.A7/Gazette Notification dated 05.05.2004 is marked. Ex.A7/Gazette Notification contains the list of societies which are defunct, and have been notified. Defendant No.21 Society details are also found in Ex.A7 Gazette Notification. From the year 2000 onwards, defendant No. 21 Society has become defunct. But the issue rest in this case, prior to 1974. The reason being that, it is the case of the defendants that, the unregistered Society was registered by Gnanaboopalarayar, husband of first defendant, in the year 1974 in No. 44 / 74. In fact, original sale deeds in respect of suit property namely Exs.B28 and 29 have been marked through D.W.5 (John Amalanathan).

44. In this regard, the core contention of the plaintiff is that the plaintiff Society is still in existence and Gnanaboopalarayar, who was holding post in the Society for long period continuously and by utilizing the goodwill earned from the community people, he transferred the suit property in the name of his wife.



45. In order to appreciate the plaintiff's contention, the details of minutes book and Ex.B30 have to be seriously scrutinized.

46. On a thorough perusal of Ex.B30, it is seen that it is a sale deed dated 18.06.1985 executed by Gnanaboopalarayar in the capacity of Secretary of defendant No.21 Society in favour of the first defendant Lourdammal, who is none other than his wife. The said sale deed is attested by John Amalanathan/defendant No.23 and Siluvai Kitherian, who is none other than co-brother of Gnanaboopalarayar. The sale deed was executed at the Sub Registrar Office of Parasalai at Kerala. As per Section 28 of the Registration Act, if the properties are situated in more than one district, of course, sale deed can be registered in either place. When these details are under cloud, the defendants should have filed the other records connecting to the immovable property mentioned in Ex.B30. Non-filing of the revenue document pertaining to Kerala property is fatal to the defendants' case and it further strengthens the plaintiffs' case.

47. Yet another point is that Lourdammal executed sale deeds on 23.01.1986 and 21.11.1987 in favour of second defendant Rajasundari and the said sale deeds which have been registered at Parasalai would



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ultimately lead to the conclusion that in order to cheat the innocent Bharatha Kula people, sale deeds were executed in the State of Kerala. When the properties situated at Valliyoor, the first sale deed namely, Ex.B30 and subsequent sale deeds Exs.B4 and B5 were executed outside of Valliyoor Sub Registrar Office raises strong presumption that in order to not to bring it to light about those transactions in respect of the suit property, the above stated sale deeds have been executed in the State of Kerala. No convincing explanation is forthcoming from the defendants in this regard.

48. There is no dispute as to the fact that the suit property was purchased under Exs.A1 and A2 in the year 1935 and 1936 on behalf of the plaintiff unregistered Society. The private question is whether the suit property exclusively belongs to the plaintiff Society or as put forth by the defendants, the plaintiff's unregistered Society was subsequently registered (No.44/74) and it went to the hands of defendant No.21 registered Society and thereafter, alienations have been made in the name of first defendant and second defendant.

49. The suit was filed along with application under Order 1 Rule VIII C.P.C and it was allowed by the Trial Court. The Order passed in



I.A holds good. Therefore, it is not open to the appellants to contend that the suit is not maintainable.

50. First of all, how did the Society function in early days has to be looked into by perusing Ex.B23-Minutes Book. Minutes Book (Ex.B23) contains meeting of the minutes from 05.06.1943 upto 08.03.1969. The very first minutes reads about the meeting conducted on 05.06.1943. The minutes reads about the administration and the head of the Singikulam Bharatha Ikkia Santhai (hereinafter mentioned as SBIS) Thalaivar Joseph Roche Swamy. It further reads that as he is not in a position to come down to Valliyur, some other arrangement has to be made. In the same minutes, the 8th point reads about the Kariya Committee, appointing the members of Kariya Committee. The first member was Rev.S.Mariyadoss Swamigal and third member is T.M.Gnanaboopalarayar, who is the husband of the first defendant Lourdammal.

51. As regards the minutes pertaining to the meeting conducted on 06.06.1945, the above Gnanaboopalarayar has signed as second signatory to the minutes. On 04.08.1949, the members of Administrative Committee were nominated afresh. On 03.08.1950, after the meeting,



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resolution has been passed and Gnanaboopalarayar has appended his signature in the capacity as Secretary. On 07.03.1952 under the headship of Mariyadoss, members of the General Body were nominated. Some fifty three names have been written and serial No.19, T.M.Gnanaboopalarayar as Kariatharisi (Secretary). On 08.03.1969, the said Gnanaboopalarayar was acting as Secretary of plaintiff's Society (SBKI). Undoubtedly, this Minutes Books/Ex.B83 gives a deep insight as to the affairs of Society.

52. As per minutes of meeting, it was decided that the properties belonging to the Panchayat are to be leased out or to be rented out in order to augment income for the SBIS. As per minutes dated 16.01.1946, it appears that as President Rev. Mariadoss Swamigal completed construction of daily fish market at Valliyoor by getting loan of Rs.1400/- and he was permitted to make good the said amount from the income of Panchayat. As per the minutes dated 01.04.1947, Resolution No.5 is that “இந்த பஞ்சாயத்துகளுக்கோ இதன் சொத்துகளுக்கோ சந்தைக்கோ தீங்கிளைப்பவர்களுக்கு பிரசிடண்ட் மினிட் புத்தகத்திலேயே நோட் (குறிப்பு) எடுத்து வைக்க தீர்மானிக்கிறோம்.□

53. As per resolution dated 04.08.1949, the accounts pertaining



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to 1948 were drawn. To that effect, resolution was passed. Resolution No.3 is that for two children who are studying third standard were given monetary help to continue their studies. As per resolution dated 09.07.1951, as per the resolution of the Panchayat members, Directorate of Fisheries, Chennai, a lorry was allotted on rental basis. In all the resolutions, the plaintiff Society mentioned as Sigikulam Bharatha Kula Ikkia Santhai Panchayat. In a resolution, minutes was passed to the effect that if a person not a member of the said Panchayat and if he comes and sells the fishes in the Society building, then, an amount has to be collected on behalf of plaintiff Society.

54. Therefore, it is evident that some of the people who belong to Bharathakula community formed this Society and it is called as Santhai. As per resolution dated 18.03.1955 Vandipettai (cattle and parking cars) and the connected land including the trees were taken out for annual lease for a sum of Rs.305/- by Gnanaboopalarayar for three years.

55. What is the amount borrowed for the society for what purpose and other connected details are neither pleaded in clear terms nor proved satisfactorily by the defendants. The debt details are not found in Ex.B23 – Minutes Book. When that be the case, it should not lie in the



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mouth of the defendants that to repay the debts owned to Siluvai Kitherian by the Society, the property of the society was sold to Lourdammal. Such details are not found in the Sale Deed- Ex.B30. No defendants' side witness in the capacity of member of the society has spoken about the same. They got some subsidy to the tune of 50% for constructing the market building as per minutes dated 07.08.1960.

56. Singikulam Bharathakula Ikkia Santhai is a governing body to regulate and help the people and the sale of fish by the community people at Valliyoor.

57. It is not the case of the plaintiff Society that it is registered. Undoubtedly, it is a unregistered Society formed and functioning for the welfare of some people who belong to Bharathakula community and it was not stated that for entire Bharathakula community, this Society was formed. Therefore, there may be other Societies in the same community. So it is one of the unregistered Society formed for the welfare of Bharatha Community at Valliyoor.

58. Defendant No.23 John Amalanathan who is the son of Gnanaboopalarayar, deposed that his father in the capacity of President



of the said Society registered the Society in the year 1974.

59. As per Ex.B34, it is a copy of the resolution dated 03.08.1984 of the Society, wherein Gnanaboopalarayar was elected as new President of Singikulam Bharatha Ikkia Santhai Sangam. As per section 101 of the Indian Evidence Act, one who pleads has to prove. The plaintiff Society is registered in the year 1974 and properties of the said Society were brought under the registered Society are the details to have been proved by the defendants.

60. As per the provisions of the Registration Act, every Society must have registered office in the name of the Society. Maintenance of register of members with addresses and occupation has to be maintained. Such Register must be kept for inspection during the office hours. For the purpose of registration, the Society has to file memorandum and by-laws (Rule 6 of the Tamil Nadu Societies Registration Rules). The memorandum must contain the name of the Society, objects, names, address and occupation of the Committee members.

61. As per Section 15, every registered Society shall have a



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committee of not less than three members in order to manage its affairs, it shall file register of members with the Registrar as per Section 14(1).

62. As per Section 16 of the said Act, the registered Society shall keep proper books of accounts and at the expiration of each financial year, it has to prepare a receipt, and expenditure account and a balance sheet and it is to be audited by an Auditor or by two or more members of the registered Society appointed by the registered Society.

63. As regards the vesting of property as per Section 18, all the moveable and immovable properties belonging to a registered Society, if not vested in trustees, shall vest in the Committee.

64. Ex.B15 is the bye-laws of the defendant No.21 Society. What are all the properties possessed hitherto by the unregistered Society subsequently vested with the defendant No.21 Society is not proved by the Defendant No.21 with plausible evidence. Status of plaintiff Society is unregistered Society. Therefore, aforestated details as per the Societies Registration Act, 1860, need not be furnished by the plaintiff Society. Minutes of the meetings Ex.B83 definitely gives deep insight into the affairs of the plaintiff Society. Of course, plaintiff has to prove



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his case and he has to win or loose based on his pleadings and evidence. Plaintiff unregistered Society claims title based on Exs.A1 and A2 sale deeds in respect of the suit property. Execution of the above stated sale deeds is not in question.

65. As per the case of the defendants, after the Society was registered in No.44/74, the details of properties owned by the said Society have to be furnished to the Registrar and it should be backed up by the necessary resolution. No such details is put forth by the defendants no.21 Society.

66. In the absence of any proof to the effect that after the registration of the Society in 1974, the properties of unregistered Society got vested with defendant No.21 Society as it was not proved then presumption arises that the suit property purchased in the year 1935 and 1936 as per Exs.A1 and A2 sale deeds by the then President Rev.Periyanayagam Swamigal and Joseph Roche. It remains with the plaintiff Society. In order to ushurb the suit property without even passing resolution, the first defendant's husband Gnanaboopalarayar had executed the sale deeds in the capacity of President in favour of his wife and execution took place in Parasala Sub Registrar



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Office at State of Kerala. The sales will not be reflected in the Registers of the Sub Registrar Officer of Valliyoor, where the suit property is situated.

67. As per Ex.A5 dated 30.03.1990, a caution notice was issued on behalf of the defendant no.21 Society in the Dinamalar News Daily (Nellai Edition) on 30.03.1990. More particularly, it has been mentioned that an unregistered society by name “Singikulam Bharatha Ikkia Sandhai” was running under the leadership of J.B.Jovilvarayar, and involved in collecting money from the Bharatha Community. Therefore, even on behalf of the defendant no.21 Society, it was made clear that their registered society has no connection with the unregistered society (Singikulam Bharatha Ikkia Sandhai). In such circumstances, on behalf of the defendant no.21 Society, it has been stated that plaintiffs unregistered society has changed into a registered society. Ex.A5 – Caution Notice explicates that plaintiffs’ unregistered society and defendant no.21 registered society are different. When that being the case, Gnanaboopalarayar in the capacity of Secretary of defendant no. 21 Society executed sale deed in favour of his wife in respect of the suit property is totally invalid.



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68. Based on the aforesaid discussions and the observations, the plaintiff's unregistered Society and the registered Society/defendant No.21 are certainly different as pleaded by the plaintiff Society.

69. Per contra, no concrete evidence is available to establish the fact that the unregistered Society has changed into the registered Society and properties of unregistered Society got vested with the registered Society, namely, defendant No.21. Plaintiffs who are members of Bharatha community stoutly raised their voice that all the members of the plaintiffs' society belong to unregistered Society.

70. On the other hand, it is the case of the first defendant Lourdammal and after her demise, her son, defendant No.23, John Amalanathan that first defendant Lourdammal has purchased the property from her husband in the capacity of the President of the Society (Ex.B30 dated 18.06.1985) and claimed that the property devolved upon him subsequent to the death of the purchaser his mother Lourdammal.

71. The defendants denied the title of the plaintiffs to the suit



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property and have set up title on them. Defendants 4 and 5 have filed suit for the relief of permanent injunction (O.S.Nos.108 of 2008 and 109 of 2008) on the strength of Ex.B4 and Ex.B5 stating that portion of the properties were purchased from first defendant Lourdammal.

72. When all the five suits were brought under the same Court, IV Additional District Judge, Tirunelveli, and even thereafter, the plaintiffs in O.S.No.108 and O.S.No.109 of 2008 did not think fit to array the plaintiffs in O.S.No.50 of 2008 as defendants because in the comprehensive suit (O.S.No.50 of 2008) their vendor Lourdammal's title remained in question. Based upon the case of the plaintiffs and defendants put forth by the defendants in respect of the suit properties the necessity arises to the effect that who has got better title to the suit property.

73. Furthermore, as per Ex.B12, the third defendant had purchased a portion of the property from the first defendant on 04.08.1988. Upon his death, his legal heirs, defendants 32 to 38, were brought on record. The third defendant is said to have settled the property purchased by him under Ex.B12, in favour of his sons under Exs.B13 to B15 on 28.04.2011. When once Ex.B30-sale deed executed



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in favour of the first defendant Lourdammal is declared as invalid document, all the subsequent sales made by her cannot be termed as valid documents. Revenue documents and tax receipts filed by the defendants in respect of the suit property would not convey any title to the defendants as Ex.B30- Sale Deed dated 18.06.1985 is declared as invalid document.

74. It is pertinent to note that the defendant no.32 would plead adverse possession (he has been examined as D.W.2). If a person pleads adverse possession, then he has to admit the title of the opposite party. More so, the possessor should be in occupation of the property continuously for 12 years to the knowledge of the owner of the property, but the defendant No.32 has not pleaded as such.

75. Based on the cumulative analysis of entire oral and documentary evidence as mentioned supra, we are of the firm view that

the plaintiffs Bharathakula Ikkia Santhai is a unregistered Society and defendant No.21 Society is a registered Society and the properties purchased by the plaintiff Society in the year 1935 and 1936 were not at all vested with the defendant No.21 Society as pleaded by the



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defendants.

CMP(MD)No.7112 of 2025 in A.S.(MD)No.71 of 2022:

76. One Gnanathiraviam S/o Samiyadian Chelladuai of Pazhavor Village of Radhapuram Taluk has come out with an application by stating that he is a third party purchaser from the defendant Nos.22 and 23. He purchased a portion of the property measuring 9.75 cents under two sale deeds dated 31.05.2004 and 03.06.2004. He would further state that he purchased the property from the legal heirs of Lourdammal based on a Will executed by the said Lourdammal.

77. In A.S.(MD).No.71 of 2008 (O.S.No.50 of 2008 on the file of the IV Additional District Court, Tirunelveli), the parent document, namely, Ex.B30 dated 18.06.1985 in the name of Lourdammal has been declared as invalid (Ex.A4). When the title of Lourdammal is declared as invalid, then in respect of the suit property based on Ex.B30, nobody would get title. When the plaintiff does not get valid title under Ex.B30, he cannot convey any better title to anybody in respect of the suit property. In all documents executed in furtherance of Ex.B30 are not valid in the eye of law and the vendees can claim no title. Based on the



A.S(MD)Nos.71, 79 & 80 of 2022

said analysis, the proposed petitioner's claim is not tenable in law. In such circumstances, the petition to implead him as respondent No.30 is not sustainable in law and hence, this petition is liable to be dismissed.

78. In such view of the matter, the plaintiff unregistered Society is entitled for the declaration of title in respect of the suit property and other relief as sought for in the plaint.

79. In the result,

(i) A.S.(MD)Nos.71, 79 and 80 of 2022 are dismissed. Sequel to this common Judgment and Decree passed on 28.01.2022 in O.S.No. 50, 108 and 109 of 2008 by the IV Additional District Judge, Tirunelveli, stands confirmed.

(ii) CMP(MD)No.7112 of 2025 in A.S.No.71 of 2022 is dismissed.

(iii) Connected miscellaneous petition, if any, is closed.

(iv) No costs.

[G.R.S.,J] (R.K.M.,J]
19.02.2026

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



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To:

1. The IV Additional District Judge, Tirunelveli.
2. The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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A.S(MD)Nos.71, 79 & 80 of 2022

G.R.SWAMINATHAN, J.
and
R.KALAIMATHI, J.

skn

Common Judgment made in
A.S(MD)Nos.71, 79 & 80 of 2022 &
and
C.M.P(MD)No.2833 of 2022&
CMP(MD)No.7112 of 2025

19.02.2026