



WA(MD) NO. 749 of 2021

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 28.09.2026**

PRONOUNCED ON : 01.10.2026

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

AND

THE HONOURABLE MR.JUSTICE N.DILIP KUMAR

WA(MD) NO. 749 of 2021

{CNR: HCMD010269402021}



Case QR

AND

SA(MD) NO. 434 OF 2011

1. V.Ramiah(Died)(Substituted by)R.Periasamy,
S/o. Late V.Ramiah
No.5-C, Ambasamudram Road
kulavanigarpuram
Palayamkottai Taluk
Tirunelveli District.
R.Periasamy/LR of the deceased Sole Appellant
is substituted in the place of the deceased
Sole Appellant vide court order dated 28.11.2024
made in CMP(MD)No. 7546 of 2022
in WA(MD)No. 749 of 2021
by TKRJ and NSJ.

Appellant(s)

Vs

1. J./sankarkumar
2. The Commissioner
Tirunelveli Coproation
Tirunelveli
3. The Assistant Commissioner
Melapalayam Zone



SA(MD) NO. 434 of 2011

Respondent(s)

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1.S.Jeyaraman
2.S.Muthupandi
3.S.Murugan

Appellant(s)

Vs

1.V.Ramiah(died)
2.V.Muppidathi
3.V.Paramasivam
4.M.Chokkalingam
5.Gomathi
6.The Commissioner
Tirunelveli Coproation
Tirunelveli
7.Chendu
8.Periasamy
9.Ramalakshmi
R7 to R9 are brought on record
as Lrs of the deceased first respondent
vide Court order dated 10.08.20223

Defendant(s)

WA(MD) No. 749 of 2021

For Appellant(s):

M/s.T.Selvan

For Respondent(s):

M/s. H. Arumugam for R1

Mr.Aayiram K.Selvakumar for R2

Prayer:

To prefer this Memorandum of Grounds of Writ Appeal against the order passed by the Learned Single Judge MR.JUSTICE G.R. SWAMINATHAN dated 03.02.2021 made in W.P.(MD).No.15588 of 2020 on the file of this Hon'ble Court and pray to set aside the order in the writ petition by allowing this writ appeal for the following among other.

SA(MD) No. 434 of 2011

For Appellant(s):

M/s.H.Arumugam



For Defendant(s): Mr.R.T.Arivu Kumar for R8
Mr.Aayiram K.Selvakumar for R2

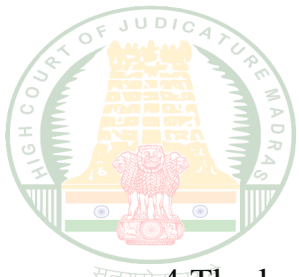
COMMON JUDGMENT

WEB COPY (Order of the Court was made by the Hon'ble **M.DHANDAPANI J.**)

The present Writ Appeal and the Second Appeal arise out of the dispute between the parties concerning the property described as the fourth schedule property in O.S.No.204 of 2006. Since the order impugned in the Writ Appeal and the proceedings in the Second Appeal have their genesis in the same property dispute, both matters were heard together and are disposed of by this common judgment.

2. The plaintiff in O.S.No.204 of 2006 is the appellant in the Writ Appeal. Defendants 1 to 3 in the suit are the appellants in the present Second Appeal. The first respondent in the Writ Appeal is the son and legal heir of the first defendant.

3. The suit in O.S.No.204 of 2006 was instituted by the plaintiff seeking a declaration that the fourth schedule property absolutely belongs to him and for a consequential injunction restraining defendants 1 to 3 from interfering with his peaceful possession and enjoyment thereof.



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4. The learned I Additional District Munsif, Tirunelveli, by judgment and decree dated 07.09.2010, dismissed the suit. Aggrieved by the same, the plaintiff preferred A.S.No.101 of 2010 before the learned Principal Subordinate Judge, Tirunelveli. By judgment and decree dated 22.02.2011, the learned First Appellate Court allowed the appeal and decreed the suit. Challenging the said judgment and decree, defendants 1 to 3 have preferred the present Second Appeal.

5. The case of the plaintiff, in brief, is that the suit properties originally belonged to his great-grandfather, Kirubakarathevar, who died intestate leaving behind his only son, Veerapathira Thevar. During his lifetime, Kirubakarathevar had constructed a house in a portion of the first schedule property. After his demise, Veerapathira Thevar inherited the properties and subsequently died intestate leaving behind his only son, Arumuga Thevar.

6. Arumuga Thevar thereafter enjoyed the properties as absolute owner and subsequently died intestate leaving behind his sons, namely, Shunmuga Thevar, Subbiah Thevar, Veerapathira Thevar and Ponniah Thevar. According to the plaintiff, after the death of Arumuga Thevar, his sons continued to enjoy the



properties and their names were also entered in the revenue records.

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7. The plaintiff's father, Veerapathira Thevar, died on 05.11.2001 leaving behind his wife Pitchammal, the plaintiff Ramiah, the fourth defendant Muppidthi, the fifth defendant Paramasivam and Ramalakshmi, the mother of defendants 6 and 7, as his legal heirs.

8. According to the plaintiff, during the lifetime of Veerapathira Thevar, he and his brothers effected an oral partition in the year 1955, under which the second schedule property was allotted to the share of the plaintiff's father. It is stated that thereafter Veerapathira Thevar was in exclusive possession and enjoyment of the said property and paid the requisite taxes.

9. The plaintiff further states that on 19.10.2004 his mother executed a registered settlement deed in respect of her undivided share in the second schedule property in favour of the plaintiff and defendants 4 and 5. Thereafter, in December 2004, an oral partition took place among the plaintiff and defendants 4 and 5, under which the third schedule property was allotted to the plaintiff. According to the plaintiff, the said arrangement was acted upon and he



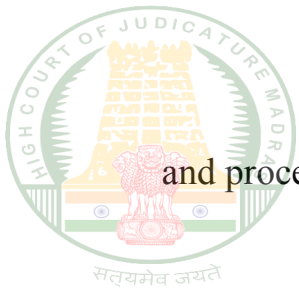
continued in possession and enjoyment of the third schedule property.

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10. The fourth schedule property is stated to form part of the third schedule property and also a portion of the second schedule property. According to the plaintiff, defendants 1 to 3 are strangers to the plaintiff's family and are claiming rights over the property lying to the south of the third schedule property.

11. The plaintiff claims that the property of defendants 1 to 3 is comprised in T.S.Nos.351 and 352, whereas his property is comprised in T.S.No.305. According to him, the property has been demarcated by survey stones from time immemorial and the parent documents of defendants 1 to 3 themselves disclose T.S.No.305 as their northern boundary and refer to the plaintiff's predecessors as the owners on the northern side.

12. The plaintiff alleges that defendants 1 to 3 attempted to interfere with his possession and sought to lay a pathway through the fourth schedule property. He further alleges that they approached the local authority for obtaining water supply connection to their house through the disputed property. 13. The plaintiff relies upon Exhibits A5 to A8 in support of the subsequent exchange of notices



and proceedings.

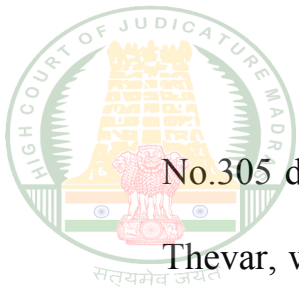
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14. Defendants 1 to 3 disputed the plaintiff's title as well as the alleged oral partitions. According to them, the real dispute relates to Pandithurai 3rd Street, which runs in the north-south direction and has a width of about 18 feet.

15. Their specific case is that Pandithurai 3rd Street runs through portions of Survey Nos.351, 352 and 305 and lies on the southern side of the third schedule property. According to them, the alleged fourth schedule property is not an independent property at all, but forms part of the said street.

16. The defendants further contended that the street originally had a width of about 10 feet and that the owners of the lands comprised in Survey Nos.351, 352 and 353 subsequently contributed portions measuring about 8 feet in the north-south direction for widening and facilitating the use of the street. According to them, the compound walls were thereafter constructed on the northern side, leaving the said portion for the street.

17. It is also the case of the defendants that the south-eastern portion of Survey



No.305 did not belong to the plaintiff but belonged to his father, Sankarapandi Thevar, who initially became a mortgagee in respect of the said property in the year 1956 and subsequently acquired absolute title under a registered sale deed dated 15.07.1960. According to the defendants, the said portion was also contributed for formation of Pandithurai 3rd Street.

18. The plaintiff examined himself as PW1 and another one Arumugam as PW2 and marked Exhibits A1 to A13. On the side of the defendants, the second defendant Muthupandi was examined as DW1 and another witness Karuppusamy was examined, and Exhibits B1 to B9 were marked.

19. At the time of admission of the Second Appeal, the following substantial questions of law were formulated:

“a) When the relief asked for in the suit is barred under Section 3 and Article 137 of Limitation Act, 1963 whether the Lower Appellate Court is right in decreeing the suit by reversing the judgment of Trial Court?

b) When the existence of Pandithurai 3rd street has been clearly

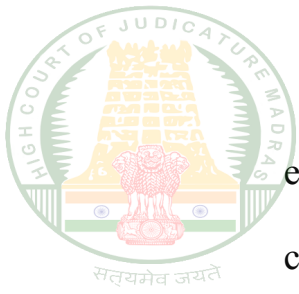


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admitted in the plaint schedule various documents namely Ex.A-1, Ex.A-2, Ex.A-5, and Ex.A-7 and the same is proved through Ex.B-1 to B-9 whether the Lower appellate Court is right in giving a finding that there is no such street since the same is not found in the Municipal records?

c) When it is incumbent upon the court to see the relief is asked for within the time or not and when the parties have contested the suit with the knowledge of specific issue as to limitation and the trial court has also discussed the same in detail upon the evidence and whether the Lower of parties Appellate Court is correct in decreeing the suit on the ground of lack of pleading by reversing the well considered judgement of the trial court?

d) When the plaintiff has not come to the court with clean hands and suppressed material facts of the existence of Pandithurai 3rd Street whether the and plaintiff is entitled to the discretionary equitable relief of declaration and injunction under Section 34 and 36 of Specific Relief Act?

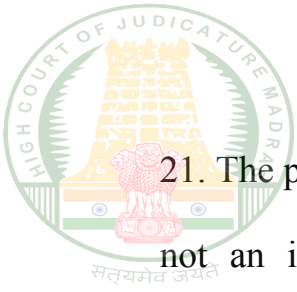


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e) When the plaintiff/1st respondent has not proved his specific case of oral partition held in 1955 and 2004 and when PW-1 admits in his evidence that there is no oral partition in the year 2004 Court is right in Appellate whether the Lower decreeing the suit?

f) When the dispute is in respect of measurement of properties both parties and when the appellant has specifically pleaded that he has left 8 feet space on the northern side of his property i.e. beyond his compound wall whether the Lower Appellate is right in decreeing the suit without reference to the measurements of the properties?”

20. Questions (a) and (c) relate to limitation and are therefore taken up together. Questions (b) and (f) relate to the identity of the fourth schedule property, the alleged Pandithurai 3rd Street and the measurement pleaded by the defendants and are also taken up together. Question (e) relates to the plaintiff's title and the alleged oral partitions. Question (d) concerns the allegation of suppression and the entitlement to the relief of declaration and injunction.



21. The principal defence of the appellants is that the fourth schedule property is not an independent property belonging to the plaintiff but forms part of Pandithurai 3rd Street. It is not disputed that Pandithurai 3rd Street exists in the locality. The real controversy is as to whether the specific portion described in the plaint as the fourth schedule property forms part of the said street.

22. The mere existence of a street in the locality cannot, by itself, establish that the disputed fourth schedule property forms part of that street. The defendants, having specifically pleaded that the fourth schedule property is part of the street and that portions of the adjoining patta lands were contributed for formation or widening of the street, were required to establish the same by acceptable evidence correlating the alleged street with the survey particulars, boundaries and measurements of the disputed property.

23. The plaintiff relies upon Ex.A11 rough plan and the other title and boundary documents to establish the identity of the fourth schedule property. The appellants, on the other hand, rely principally upon Exhibits B1 to B9 and, in particular, Ex.B7 dated 15.07.1960.



24. Ex.B7, namely, the sale deed executed by Subbiah Thevar and Velu Thevar in favour of Sankarapandi Thevar, is relied upon to establish that the predecessor of the defendants had acquired a portion of Survey No.305 and that the same was thereafter utilised for formation of the street. However, the boundaries contained in Ex.B7 do not satisfactorily establish that the property covered by the document corresponds to the fourth schedule property. Significantly, the northern boundary is shown as the property of Veerappa @ Veerapathira Thevar, the predecessor of the plaintiff. Therefore, the claim made by the defendants that there existed a road through the aforesaid survey numbers is not supported by any documentary evidence. The defendants have also not produced any acceptable documentary evidence to establish that any portion of Survey No.305 was contributed for formation or widening of Pandithurai 3rd Street.

25. Pursuant to the direction issued by this Court in the writ appeal, a report was also obtained regarding the existence of the alleged road and the classification of the disputed property. The report of the local authority, after verification of the relevant survey and revenue records, makes it clear that the land comprised in the relevant survey number is classified and recorded as patta land. The name of the plaintiff's father is also found recorded in the relevant revenue records. The said property is not classified in the relevant records as Government land,



public road, municipal road or any other public pathway.

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26. The defendants' plea that eight feet of land was left on the northern side of their property for formation of the street also remains unsupported by any material correlating the alleged eight-foot strip with the fourth schedule property. A mere assertion regarding the existence of an eight-foot space cannot, without establishing its exact location, measurement and identity, prove that the disputed property forms part of the street. The local authority has further reported that the property of the first defendant is situated in a different survey number and that access to the said property is available through another access portion. The alleged pathway through the plaintiff's property has not been established in the revenue records.

27. The decision relied upon by the appellants in *Rajapalayam Municipality though its Commissioner v. Jayabhaskaran & Ors.*, reported in *2013 (1) CTC 171*, does not assist them on the facts of the present case. The said decision cannot be read as laying down that a disputed property becomes a public street merely because a street exists in the locality. The character and identity of the particular property must still be established on evidence.

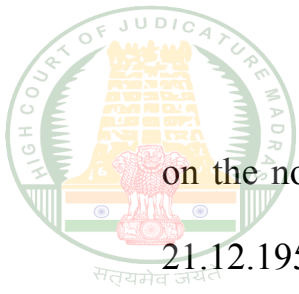


28. Likewise, the decision in *M.Rajagopal v. Suresh*, reported in **2023 (4) CTC**

63, relied upon by the appellants, cannot advance their case unless the factual foundation that the fourth schedule property forms part of a public street or pathway is first established. That foundational fact has not been proved in the present case.

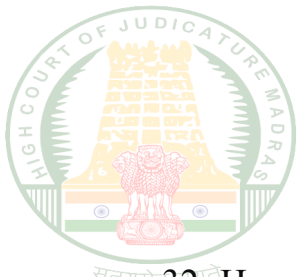
29. The learned First Appellate Court, on a careful consideration of the oral and documentary evidence, has arrived at a categorical finding in this regard. Exhibits A1, A2, A5 and A7, when considered together with the other documents, do not establish the existence of any road through the disputed fourth schedule property as claimed by the defendants. The report of the local authority and the revenue records also do not support the case of the defendants.

30. Even the learned First Appellate Court, on appreciation of the oral and documentary evidence, has found that the claim of defendants 1 to 3 regarding the existence of Pandithurai 3rd Street through the disputed property was not established. The learned First Appellate Court has particularly taken note of Ex.A.9, the partition deed dated 16.07.1940, wherein the northern boundary of the property comprised in Town Survey No.351 is stated to be the house site of Veerapathira Thevar, the plaintiff's father, without any reference to a pathway



on the northern side. It has also considered Ex.A.10, the mortgage deed dated 21.12.1956, and Ex.A.7, the sale deed dated 15.07.1960, wherein the northern boundary is similarly described as the vacant site belonging to the family of Veerapathira Thevar. The learned First Appellate Court has further noticed that the alleged description contained in Ex.A.6, to the effect that the father of defendants 1 to 3 had purchased and was enjoying a portion of the property situated on the south-eastern side of Town Survey No.305, is not borne out by Exs.A.7 and A.10.

31. The learned First Appellate Court has also considered Ex.B.6 and found that, though the name of Sankarapandi Thevar is mentioned therein, no competent Revenue Department official was examined to establish the particulars contained therein. Further, with regard to Ex.B.8, wherein it is stated that the pathway on the northern side of Town Survey Nos.351 to 354 had been measured and identified by the Surveyor, the said Surveyor was not examined. Similarly, the documents relating to the alleged Pandithurai 3rd Street, including the Field Map and Topo Sketch, which, according to DW.2, were available with the Corporation, were not produced before the Court. The learned First Appellate Court has therefore held that the defendants failed to establish, by acceptable documentary or oral evidence, that the fourth schedule property formed part of Pandithurai 3rd Street.

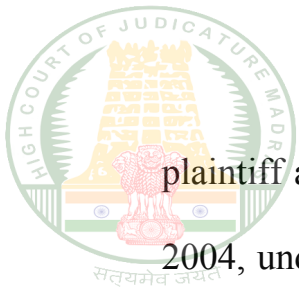


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32. Hence, the claim made by the defendants in their written statement that the alleged road existed through Survey Nos.351, 352 and 305 is not established by any acceptable evidence. This Court is therefore unable to accept the contention that the fourth schedule property forms part of Pandithurai 3rd Street or that the appellants have established the alleged eight-foot strip through the disputed property. Accordingly, substantial questions of law (b) and (f) are answered against the appellants.

33. The next issue relates to the title claimed by the plaintiff in respect of the fourth schedule property and the alleged oral partitions pleaded by him.

34. Admittedly, in support of his claim of title, the plaintiff has specifically pleaded his title and produced documentary evidence. The plaintiff's case is based upon the succession of the property from his great-grandfather, Kirubakarathevar, through Veerapathira Thevar and Arumuga Thevar, followed by the alleged oral partition among the sons of Arumuga Thevar in the year 1955, under which the second schedule property is stated to have fallen to the share of the plaintiff's father. The plaintiff thereafter relies upon the registered settlement deed dated 19.10.2004 executed by his mother in favour of the



plaintiff and defendants 4 and 5 and the subsequent oral partition in December 2004, under which the third schedule property is stated to have been allotted to him.

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35. The appellants contend that neither the oral partition of 1955 nor the alleged oral partition of December 2004 has been established and that PW1 himself has admitted in evidence that there was no oral partition in December 2004. It is true that the burden is upon the plaintiff to establish his own title. This principle has been reiterated by the Hon'ble Supreme Court in *Union of India v. Vasavi Co-operative Housing Society Limited*, reported in (2014) 2 SCC 269. However, the said principle does not mean that the plaintiff's title has to be established only through a single document of title. The Court is required to consider the entire chain of title and the oral and documentary evidence placed before it.

36. In the present case, the plaintiff has relied upon the documents relating to succession, the settlement deed dated 19.10.2004, the subsequent arrangement among the family members and the documents concerning possession and enjoyment. The learned First Appellate Court, on a careful consideration of the said materials, has arrived at a finding in favour of the plaintiff.



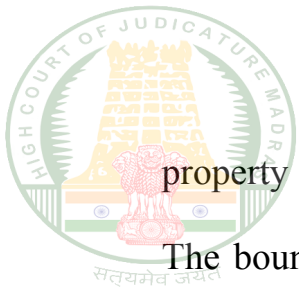
37. It is also an admitted position that defendants 1 to 3 are not the legal heirs or

members of the plaintiff's family, but are strangers to the plaintiff's family. The oral partition pleaded by the plaintiff between himself and defendants 4 and 5, along with the rights of the other family members, has not been denied by defendants 4 and 5 or by the mother of defendants 6 and 7, who are the family members concerned with the said arrangement.

38. The defendants, on the other hand, have vaguely denied the oral partition said to have taken place in December 2004 and have also referred to certain earlier settlements. They further claimed that their predecessor-in-interest originally owned lands comprised in Survey Nos.351, 352 and 353 and that a portion of the said lands was utilised for forming an 18-foot road.

39. The defendants specifically denied that Survey No.305 belonged to the plaintiff and claimed that the south-eastern portion of Survey No.305 belonged to their father, Sankarapandi. According to them, their father had purchased the property in the year 1956 and became the absolute owner thereof in the year 1960. Reliance was also placed upon the sale deed dated 15.07.1960, which was marked as Ex.B7.

40. However, as already noticed, a perusal of Ex.B7 does not establish that the



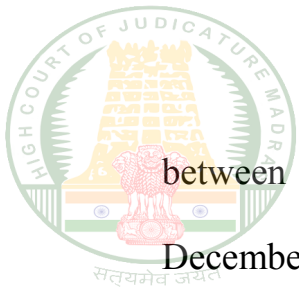
property covered by the document forms part of the fourth schedule property.

The boundaries contained in the document do not support the specific case of the defendants. On the contrary, the northern boundary is shown as the property of Veerappa @ Veerapathira Thevar, the predecessor of the plaintiff.

41. Therefore, the finding of the learned First Appellate Court cannot be said to have been rendered merely on the weakness of the defendants' case. The plaintiff's documents and the evidence led on his side have also been taken into consideration. The appellants have not demonstrated that the finding recorded by the First Appellate Court is based on no evidence or is so perverse that no reasonable Court could have arrived at such a conclusion. Accordingly, substantial question of law (e) is answered against the appellants.

42. The first issue that arises for consideration is with regard to the plea of limitation. According to the learned counsel appearing for the appellants/defendants, the suit is barred by limitation under Section 3 read with Article 58 of the Limitation Act, 1963. On the other hand, it is the contention of the learned counsel appearing for the plaintiff that the suit is not barred by limitation.

43. It is an admitted position that the plaintiff has pleaded an oral partition



between himself, defendants 4 and 5 and the mother of defendants 6 and 7 in December 2004. The same has not been specifically denied by defendants 4 and 5, including the mother of defendants 6 and 7.

44. It is also an admitted position that defendants 1 to 3 are not the legal heirs or members of the plaintiff's family, but are strangers to the plaintiff's family. Therefore, the oral partition pleaded by the plaintiff among the family members cannot be challenged by defendants 1 to 3 merely on the ground that they do not accept the same. In the present case, the family members of the plaintiff have been impleaded as defendants 4 and 5 and the sister of the plaintiff, who is the mother of defendants 6 and 7, has also been impleaded as a party. They have not specifically denied the oral partition said to have taken place in December 2004.

45. It is equally an undisputed fact that there was an exchange of notices between the plaintiff and defendants 1 to 3. The said notices have been marked as Exhibits A5 and A7. Ex.A5 is the legal notice issued by the plaintiff on 10.01.2002, specifically denying the title claimed by the defendants in respect of T.S.No.305.

46. In the said notice and the reply thereto, the defendants asserted that their predecessor, Sankarapandi, had acquired property comprised in T.S.No.351/1,

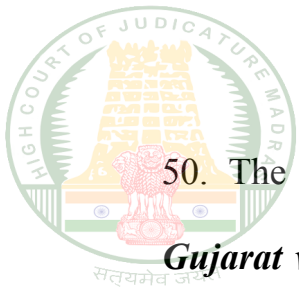


lying to the south of T.S.No.305, and had become the absolute owner thereof in the year 1960. They also claimed ownership over the south-eastern portion of the property comprised in T.S.No.305.

47. The plaintiff, on the other hand, asserted his title to the property and stated that he had already made a complaint before the concerned police station and had also made applications before the revenue authorities for mutation of the revenue records in his name. In respect of the second item of the property, he also relied upon the title documents relating to his father.

48. Thereafter, another legal notice, marked as Ex.A7, was issued by the plaintiff in December 2004, to which the defendants sent a reply dated 13.12.2004. The same was received by the plaintiff on 14.12.2004.

49. The exchange of the aforesaid notices makes it clear that the dispute between the parties had crystallised and that the controversy concerned the title, identity and enjoyment of the disputed property. Therefore, the issuance of the subsequent legal notice in the year 2004 cannot be said to be an independent cause of action wholly disconnected from the earlier notice issued in the year 2002.



50. The learned counsel appearing for the appellants relied upon *State of Gujarat v. Kothari and Associates*, reported in (2016) 14 SCC 761, in support

of the plea of limitation. The said decision reiterates the mandate contained in Section 3 of the Limitation Act that a suit instituted beyond the prescribed period has to be dismissed and that the Court is required to examine limitation in accordance with law.

51. Likewise, in *Khatri Hotels Private Limited v. Union of India and another*, reported in (2011) 9 SCC 126, the Hon'ble Supreme Court has explained that under Article 58 the period of limitation begins when the right to sue first accrues and that successive violations of the same right do not ordinarily give rise to a fresh period of limitation.

52. There can be no dispute with the above principles. The mere description of the cause of action as a continuing one cannot, by itself, defeat the plea of limitation in a suit for declaration. The Court has to ascertain when the right to seek the declaration first accrued.

53. In the present case, Ex.A5 is dated 10.01.2002 and the reply thereto is dated 24.01.2002. The contents of the notice and the reply assume significance because the defendants' assertion of title over the disputed property was raised



at that stage. At the same time, the plaintiff's case is that the precise dispute regarding the fourth schedule property and the alleged pathway continued thereafter and that there was a further exchange of notices in December 2004, followed by the proceedings before the local authority concerning the proposed water supply connection and the alleged attempt of interference on 24.03.2006. The Trial Court held that the suit was barred by limitation. The First Appellate Court, however, took the view that the subsequent assertion of title and interference furnished the cause of action for the suit.

54. The exchange of the aforesaid notices, the subsequent proceedings before the local authority and the alleged interference have to be considered in the context of the precise identity and enjoyment of the fourth schedule property. The appellants have not established that the cause of action for the precise declaration sought in respect of the fourth schedule property had unequivocally accrued on 10.01.2002 and that the subsequent events were merely repetitive violations of an already accrued right.

55. Therefore, in the facts and circumstances of the present case, the plea of limitation raised by the defendants cannot be accepted. The decision relied upon by the learned counsel appearing for the appellants on the question of limitation, though laying down the general principle governing Article 58, does not come to the rescue of the appellants on the facts of the present case. Accordingly,



substantial questions of law (a) and (c) are answered against the appellants.

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The appellants contend that the plaintiff has suppressed the existence of Pandithurai 3rd Street and therefore is not entitled to the discretionary relief of declaration and injunction.

57. The contention cannot be accepted. The existence of Pandithurai 3rd Street and the question whether the fourth schedule property forms part of that street are distinct issues. The plaintiff's case has throughout been that the disputed fourth schedule property is his patta property and that the defendants have wrongly sought to treat the same as part of the street.

58. The pleadings and documents themselves show that the parties were conscious of the existence of Pandithurai 3rd Street. Therefore, it cannot be said that the plaintiff deliberately concealed the existence of the street. The real dispute is whether the particular portion claimed by the plaintiff forms part of the street or is a separate patta property.

59. More importantly, the appellants have not established that the disputed fourth schedule property is a public street, municipal road or public pathway. The report filed by the local authority pursuant to the direction of this Court supports the classification of the disputed property as patta land and does not



establish its classification as a public road or pathway.

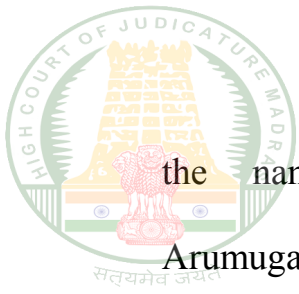
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Therefore, the allegation of suppression cannot be accepted so as to disentitle the plaintiff from the relief granted by the First Appellate Court. Accordingly, substantial question of law (d) is answered against the appellants.

61. The learned counsel for the appellants relied upon the decisions in *Union of India v. Vasavi Co-operative Housing Society Limited*, reported in (2014) 2 SCC 269; *Rajapalayam Municipality through its Commissioner v. Jayabhaskaran & Ors.*, reported in 2013 (1) CTC 171; *Khatri Hotels Private Limited v. Union of India and another*, reported in (2011) 9 SCC 126; *M.Rajagopal v. Suresh*, reported in 2023 (4) CTC 63; and *State of Gujarat v. Kothari and Associates*, reported in (2016) 14 SCC 761.

62. The principles laid down in the said decisions are not in dispute. However, none of the said decisions comes to the rescue of the appellants unless the factual foundation necessary for applying those principles is established.

63. Even in the present writ appeal, the respondents/local authority have filed a counter-affidavit and, more particularly, in paragraph No.5, have stated that, as per the relevant survey and revenue records verified by the Corporation, T.S.No.111 in Ward AV, Block No.5, is classified and recorded as patta land in



the names of Veeraputhirathevar, Pandiyathevar, Petchimuthu and Arumugathevar. In view of the categorical stand taken by the local authority in

its counter-affidavit, it is clear that there was no existing Pandithurai 3rd Street.

The said property is also not classified in the relevant records as Sarkar Poramboke land, public road, municipal road or public street. Hence, the order passed by the learned Single Judge permitting the drawal of water connection through the plaintiff's land requires interference.

64. In view of the foregoing discussion, this Court finds that the plaintiff has established his title to the suit property, whereas the appellants have failed to establish their alleged right over the disputed property or the existence of the alleged road through the suit survey numbers. The findings recorded by the learned First Appellate Court are based upon a proper appreciation of the oral and documentary evidence and do not suffer from any perversity or error of law warranting interference under Section 100 of the Code of Civil Procedure.

65. Accordingly, all the substantial questions of law are answered against the appellants.

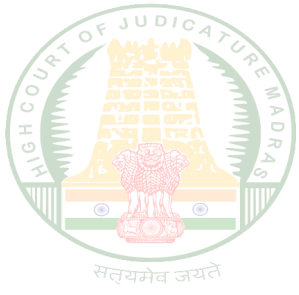
66. In the result, the judgment and decree dated 22.02.2011 passed by the



learned Principal Subordinate Judge, Tirunelveli, in A.S.No.101 of 2010 are confirmed. The Second Appeal is dismissed. Consequently, the Writ Appeal stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions, if any, are closed.

(M.DHANDAPANI J.) (N.DILIP KUMAR J.)
01.10.2026

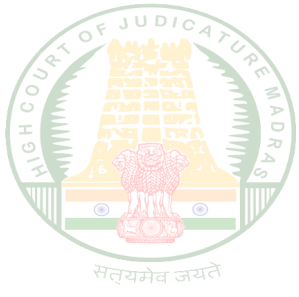
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1. The Commissioner
Tirunelveli Coproation
Tirunelveli

2. The Assistant Commissioner
Melapalayam Zone
Tirunelveli



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**M.DHANDAPANI, J.
and
N.DILIP KUMAR, J.**

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W.A(MD)No.7491 of 2021 and SA(MD) No.434 of 2011

01.10.2026