P.V.Viswanathan vs K.Radhalakshmi on 31 July, 2018

Author: V.M.Velumani

Bench: V.M.Velumani

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 31.07.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

S.A.Nos.676 to 678, 701, 742, 743,
892 to 894, 908, 985 of 2016 and 17 and 18 of 2017
and C.M.P.Nos.12565 to 12567, 13252, 14077, 14078, 18069 to 18071, 18388, 20182 of 2016

Orders reserved on
16.07.2018
Orders pronounced on
31.07.2018

S.A.No.676/2016

P.V.Viswanathan .. Appellant

Vs.

K.Radhalakshmi .. Respondent

PRAYER in S.A.No.676/2016: Second Appeal is filed under Section 100 of C.P.C against the

In all Second appeals except S.A.No.908 of 2016

For Appellants : Mrs.Nalini Chidambaram
Senior Counsel for Ms.C.Uma

For Respondent : Mr.P.Subba Reddy

In S.A.No.908 of 2016

For Appellant : Mr.A.Ramasamy

For Respondent : Mr.P.Subba Reddy

C O M M O N J U D G M E N T

S.A.No.676 of 2016 is filed against the judgment and decree dated 15.12.2015 made in A.S.No.13 of 2013 on the file of the Principal District Court, Thiruvallur, confirming the judgment and decree dated 17.09.2012 made in O.S.No.216 of 2008 on the file of the Sub Court, Poonamallee, insofar as the prayer of eviction and modified the future damages fixed by the trial Court.

S.A.No.985 of 2016 is filed against the judgment and decree dated 23.03.2016 made in A.S.No.55 of 2014 on the file of the Sub Court, Poonamallee, reversing the judgment and decree dated 20.03.2014 made in O.S.No.423 of 2009 on the file of the Principal District Munsif Court, Poonamallee.

2.Issues involved in all these Second Appeals are one and the same and facts are same, except extent of the properties, date of agreements and amount of rent. In view of the same, the facts in S.A.No.676 of 2016 alone is referred to while deciding all the Second Appeals.

3.The appellants in the above Second Appeals are defendants in the respective suits filed by the respondent herein. All the Second Appeals are against concurrent findings of the Courts below, except S.A.No.985 of 2016.

Case of the respondent/plaintiff/landlady:

4.According to the respondent, she is owner of the suit property. She purchased the land measuring 1.75 Acres in Survey No.151 in Ramapuram Village, Ambattur Taluk, Tiruvallur District, in the year 1976 from one Gemini Ganesan. From the date of purchase, she is in possession and enjoyment of the properties. The suit properties form part of the larger extent. According to the respondent, the appellant had entered into a lease agreement on 15.10.1997 for running a factory on a monthly rent of Rs.2,000/- and paid a sum of Rs.25,000/- as security deposit. The tenancy is according to English calender. The appellant has to pay the rent every month. The lease came to an end on 15.10.2000. The appellant has been extending the tenancy on monthly basis. The respondent's family have constructed 47 sheds in their land and rented out the same to the appellant and others. The appellant has to pay monthly rent on or before 5th of every month. The appellant paid the rent from the date of agreement, until May 2008. The last rent paid by the appellant is for the month of May 2008. Suddenly, during the month of May 2008, the appellant ganging up with some other tenants, sent a letter dated 30.05.2008, through their association, stating that they would not pay the monthly rent in advance, but would pay only in the succeeding month. The appellant and other tenants sent individual letters dated 07.07.2008, stating that there is doubt about the ownership of the respondent and they have stopped paying the rent.

4(a).The respondent is owner of the suit property and patta has been issued in her name. Some property around the suit property was taken by the Government during the year 1983 to handover to a Company, where the respondent had major shares. The Government had not completed the formalities till the Repeal Act, 1999, came into force. The respondent issued notice dated 09.06.2008 for eviction of the appellant and for damages. The appellant sent a reply dated 16.06.2008, denying the title of the respondent/plaintiff and made false and untenable allegations. The appellant is denying the title of the respondent only with a view to extract huge money from the respondent as there was rumors that DLF, which was putting up huge buildings behind the suit property, had entered into an agreement of sale with the respondent. The respondent has no intention to sell the property to DLF or others. The appellant has lost the right of tenancy as per Section 111(g)(2) of the Transfer of Property Act, when he denied the title of the respondent. The appellant had damaged the suit property and damage caused is estimated at Rs.30,000/-. The appellant is liable to pay a sum of Rs.9,000/- as damages per month for use and occupation.

4(b).On these averments, the respondent has filed the suit for a direction to the appellant to quit and deliver the vacant possession of the suit property described in the plaint and directing the defendant/appellant to pay a sum of Rs.3,640/- towards rent for the month of June 2008; directing the appellant to pay a sum of Rs.18,000/- towards damages for the wrongful use of the suit premises for the month of June and August 2008; directing the appellant to pay a sum of Rs.9,000/- per month towards future damages for the wrongful use of the suit premises from the month of September 2008, till the date of delivery of suit premises and for the direction to the appellant to pay a sum of Rs.30,000/- towards repair of the suit property.

5.The appellant filed written statement and denied that respondent is owner of the suit property. The appellant admitted that he has entered into a rental agreement with the respondent on 15.10.1997 on a monthly rent of Rs.2,000/- for their business and is carrying on business in the suit property. The appellant has sent suitable reply to the notice sent by the respondent. The allegation that appellant is trying to extract huge money from the respondent and his predecessor is denied. The respondent has suppressed the material facts. The suit property does not belong to the respondent as major part of the larger extent was taken over by the Government under Tamil Nadu Urban Land (Ceiling and Regulations Act, 1978). Excess land taken over is vested with the Government. The Writ Petition No.28993 of 2007 filed by the respondent is pending on the date of filing of the suit. The appellant denied that he has to pay damages or future damages and claim of the appellant is illegal and unwarranted.

6.Based on the above pleadings, the learned Trial Judge framed necessary issues, separately in all the suits. On behalf of the respondent, one K.Bala Boopathy, who is the respondent in S.A.No.677 of 2016, was examined as P.W.1 and marked 14 documents as Exs.A1 to A14. Appellant/P.V.Viswanathan examined himself as D.W.1 and marked 11 documents as Exs.B1 to B11.

7.The learned trial Judge, considering the pleadings and oral and documentary evidence, decreed the suits in all the Second Appeals, except dismissing the suit in S.A.No.985 of 2016.

8(i).Against the judgment and decree dated 17.09.2012 made in O.S.Nos.216 of 2008, 36 of 2009, 239 of 2008, 61 of 2010 and 238 of 2008, defendants/appellants filed A.S.Nos.13 of 2013, 13 of 2015, 14 of 2014, 29 of 2013 and 15 of 2014 respectively.

8(ii).Against the judgment and decree dated 16.08.2013 made in O.S.Nos.108 of 2010, 33 of 2010, 139 of 2011 and 27 of 2010, the defendants/appellants filed A.S.Nos.62 of 2013, 57 of 2013, 59 of 2013 and 58 of 2013 respectively.

8(iii).Against the judgment and decree dated 21.08.2013 made in O.S.No.47 of 2009, defendant/appellant filed A.S.No.17 of 2014.

8(iv).Against the judgment and decree dated 19.09.2012 made in O.S.No.12 of 2011, defendant/appellant filed A.S.No.14 of 2013.

8(v).Against the judgment and decree dated 29.01.2013 made in O.S.No.421 of 2009, defendant/appellant filed A.S.No.67 of 2013.

8(vi).Against the judgment and decree dated 20.03.2014 made in O.S.No.423 of 2009, plaintiffs/respondents filed A.S.No.55 of 2014.

9.The learned First Appellate Judge framed necessary points for consideration and considering the materials on record, judgment of the Trial Court, dismissed the Appeals in A.S.Nos.62 of 2013, 17 of 2014, 67 of 2013, 57 of 2013, 59 of 2013 and 58 of 2013, modified the appeals in A.S.Nos.13 of 2013, 14 of 2013, 13 of 2015, 14 of 2014, 29 of 2013 and 15 of 2014 to the effect of reducing amount quantified as damages and confirmed the judgment of the trial Court in all other aspects and allowed A.S.No.55/2014 filed by the respondent/landlady in S.A.No.985/2016.

10.The appellants who are tenants, against the separate judgments and decrees of the I Appellate Court, have come out with the present Second Appeals.

11.The following Substantial Questions of Law were framed in Second Appeals:

S.A.Nos.985 of 2016 and 17 and 18 of 2017:

.Whether the reliance on the Rule of Estoppel in Section 116 of the Indian Evidence Act by the Courts below for deciding the issue in the first appeal was misplaced when there is always exception to the rule of estoppel and hence denial of the title of the respondents to the suit property by the appellant is not hit by Section 116 of the Indian Evidence Act in the facts and circumstances of the case and there is no estoppel against law?

2.Whether the failure to refer to the proceedings under the Urban Land (Ceiling and Regulation) Act and the order of the Hon'ble Supreme Court in S.L.P.No.3946 of 2012 dated 01.04.2013 has vitiated the orders of the Trial Court and the I Appellate

Court and has resulted in miscarriage of justice? S.A.Nos.676 to 678, 701, 742, 743, 892 to 894 of 2016:

.Whether the failure to refer to the proceedings under the Urban Land (Ceiling and Regulation) Act and the order of the Hon'ble Supreme Court in S.L.P.No.3946 of 2012 dated 01.04.2013 has vitiated the orders of the Trial Court and the I Appellate Court and has resulted in miscarriage of justice?

2.Whether the Courts below failed to appreciate that the respondents have no locus standi to maintain the suit when as per the Supreme Court decision in S.L.P.No.3946 of 2012 dated 01.04.2013 the suit schedule property had already vested in the estate even as early as 1983 under the Urban Land Ceiling Act and as on date the respondents are only the encroachers? S.A.No.908 of 2016:

No substantial question of law has been framed and an interim stay was granted in C.M.P.No.18388 of 2016 in S.A.No.908 of 2016.

12.The learned Senior Counsel for the appellants in all the Second Appeals and counsel for the appellant in S.A.No.908 of 2016 contended that respondent is not owner of the suit property. The respondent has admitted in paragraph 5 of the plaint that there were certain Urban Land Ceiling proceedings against the properties, certain portions of the property were acquired and allotted to the respondent's company and respondent continued to be in possession till filing of the suit. The company referred to by the respondent is M/S.Telace Plants and Equipments Private Limited. The said company is separate legal entity of its own and equal to natural person. The company bears its own name and seal. The assets are separate and distinct from those of its members. The respondent as a share holder cannot claim possession of the company amounts to her possession. The land was taken from the respondent in the year 1983 and was allotted to the company in the year 1990 by G.O.Ms.No.657, Revenue Department, dated 19.04.1990. Once possession is taken from the respondent under Section 11 of the Urban Land Ceiling Act in the year 1983, the respondent is not entitled to claim benefit of Repeal Act of the year 1999. The respondent is estopped from contending that she is in possession of suit property as landlady and cannot seek ejectment of the appellant.

12(i).Both the learned Senior Counsel for the appellants and counsel for the appellant in S.A.No.908 of 2016 further contended that the respondent misrepresented that she is owner of the suit property and by mistake, the appellant entered into lease agreement with the respondent on 15.10.1997. The said agreement is void as the respondent is not the owner as on the date of agreement and denial of the appellant with regard to the title of the respondent will not attract provisions of Section 111(g) of the Transfer of Property Act. The Trial Court decreed the suit based on the order of this Court dated 02.02.2011, made in W.P.No.28993 of 2007 that Government did not take possession of the suit property from the respondent under Urban Land Ceiling proceedings. The order in the W.P.No.28993 of 2007 was set aside by the Division Bench of this Court by the judgment dated 15.11.2011 made in W.A.No.554 of 2011, filed by the appellant/tenant, against which S.L.P.No.3946 of 2012 filed by the respondent was dismissed. The Review Petition filed by the respondent was also dismissed.

12(ii).The appellant filed Interim Application under Order XLI Rule 27 of C.P.C for marking of the additional document before I Appellate Court, to substantiate the fact that by the subsequent orders of Courts, the respondent has lost her title over the property and the Government is in possession of the property. The I Appellate Court without considering the same, modified the judgment and decree of the Trial Court to the effect of reducing amount quantified as damages and confirmed the decree of possession. The judgment of the Courts below ought to be set aside as order of this Court dated 02.02.2011 made in W.P.No.28993 of 2007 was set aside by the Division Bench of this Court and the same was confirmed by the Hon'ble Apex Court. The finding of the Courts below that appellant is estopped from denying the title of the respondent is misconceived, as there cannot be any estoppal against statute. Section 116 of the Indian Evidence Act is not applicable and only Section 115 of the Indian Evidence Act is applicable. The appellant denied title of the respondent, relying on the proceedings under Urban Land Ceiling Act. The Government has taken over the excess land and respondent has lost her title and possession of the suit property. The appellant came to know the proceedings under Urban Land Ceiling Act only in the year 2008 and immediately stopped paying rent to the respondent. The denial of title by the appellant is bona fide. The Government allotted the excess land to M/s.Telace Plants and Equipment Private Limited by G.O.Ms.No.657, Revenue Department, dated 19.04.1990, on conditions mentioned therein. The said company failed to comply with the said conditions imposed in the G.O. and the land is reverted to the Government. The appellant who was in excess land, carrying on industrial activities, has applied to the Government for allotment of the land in their possession to him. The said issue is pending in W.A.No.231 of 2011 and etc., batch. The learned I Appellate Judge referred to various judgments relied on by the appellant, but did not give finding. The learned I Appellate Judge in the judgment, except mentioning the provisions of law, reiterated the findings of the Trial Court. In view of the judgment of the Hon'ble Apex Court in S.L.P.No.3946 of 2012 dated 01.04.2013, the respondent lost title over the suit property. Once landlady has lost her title, she cannot maintain the suit for possession and even if decree is passed, it is inexecutable. The Government has taken possession of the suit property by G.O.Ms.No.32, dated 17.08.1983. The respondent has not challenged the said G.O. 12(iii).The learned counsel for the appellant in S.A.No.908 of 2016, which is arising out of the judgment in O.S.No.421 of 2009, filed a certified copy of the counter affidavit of the Secretary to the Government filed in W.P.No.28993 of 2007, which was marked as Ex.B6. The Courts below failed to consider the said counter affidavit filed and marked by the appellant. The agreement entered into between the appellant and respondent is void as per Section 24 of the Contract Act. The Government has filed O.S.No.449 of 2013 on the file of the District Munsif Court, Poonamallee, restraining the respondent from collecting rent from the appellant/tenant and for mandatory injunction directing the respondent to remit the amount of rent already collected by her till date for the Government land in S.No.151/1B of Ramapuram village into Government account immediately. The respondent received part of compensation, subsequently, she did not receive balance compensation. In view of the same, suit filed by the respondent is not maintainable.

12(iv).In support of their contentions, both the learned Senior Counsel for the appellants and counsel for the appellant in S.A.No.908 of 2016 have relied on the following judgments:

(i) (1998) 3 MLJ 561 (L.Sundaresa Naicker v. Baby Ammal);

. The concept of relationship of landlord and tenant under the rent control proceedings has a bearing with regard to the right over the collection of rent alone, so long as the real owner or the person who is having a title over the property does not come in the picture. When the dispute with regard to the title arises and a finding has been given one way or the other in respect of the title, then the real owner alone is entitled to evict the person who is in possession of the property as he is the one who is entitled to collect the rent after the dispute with regard to the title has become final.

5. Hence, I am of the view that the order of eviction obtained by the respondent is of no use, since it has been categorically found that the respondent has no title to the property.

(ii) 2004 (3) CTC 489 (A.Koman v. T.S.Balasubramaniyan);

4.It is pertinent to point out that after the remand, the plaintiff filed an application seeking to amend the plaint in respect of the second item of property, through which he claimed a larger extent. When the defendant filed his additional written statement, he questioned the title of the plaintiff in respect of the second item of property stating that the property actually vested with the Government, and B memo has been served on him by the Government, the paramount title holder. Under such circumstances, without deciding the question of title of the plaintiff in respect of the second item of property, the dispute in controversy could not be decided. It is true that under Order 41 Rule 23A of the Code of Civil Procedure, the Court, which decides the matter after the order of remand, cannot go beyond the scope of the said order of remand. In the instant case, the facts and circumstances warranted for a decision as to the title to the property, and hence, it cannot be stated that when there was a specific direction by the superior Court to decide the dispute regarding the identity of the plaint Schedule item No.2, the trial Court has exceeded its limits and has gone beyond the scope of the remand order and has decided the title to the second item of property.

.. ..

19.The estoppel contemplated under Sec.116 of the Evidence Act is restricted only to the denial of the title at the commencement of the tenancy, and thus, it would be clear that the tenant was not estopped from contending that the title of the landlord has come to an end. In the instant case, originally the properties what were leased out, were items 1 and 2. Since there is no controversy in respect of item No.1, the order of eviction granted by the first appellate Court has got to be maintained. As regards item No.2, the plaintiff sought for a relief that he was entitled to the item 2 of the property measuring 20 feet east west and 102 feet north south in Survey No.260 . However, the defendant is able to show that he was served with B memo under Ex.B8 stating that he is in occupation of the property measuring 0.01.0 hectare in Survey No.260. In view of the settled position of law, the plaintiff cannot maintain a suit in respect of the property found under Ex.B8. Therefore, excepting the property what is found under Ex.B8 having an extent of 0.01.0 hectare, there cannot be any impediment for granting the relief in favour of the plaintiff in respect of the second item of property as found under Ex.A1.

(iii) 2002 (3) SCC 98 (J.J.Lal Pvt. Ltd. vs. M.R.Murali), wherein it is held that mere denial of title is not enough. To be hit by Section 116 of the Evidence Act, the denial has to be not bonafide. In this

case, the denial of title is bonafide.

(iv) 1984 (2) SCC 656 (A.C.Joss v. Sivam Pillai), wherein it has been held that there is no estoppel against statute. Where the statute does not countenance a particular procedure or method, parties failure to raise objection at the time of applying that procedure or method would not estopel him from challenging the same, later before the Court Section 115 of the Evidence Act.

13.Per contra, the learned counsel for the respondent contended that respondent/landlady filed suit against the tenant for delivery of vacant possession and for arrears of rent including damages as tenant failed to pay the rent from June 2008 over a period of ten years. When the Second Appeals came up for hearing, this Court directed the tenants to deposit arrears of rent into Court.

13(i).The appellant entered into rental agreement after the proceedings under Urban Land Ceiling Act, admitting the respondent as their landlady. Once the appellant admitted the respondent as landlady and entered into rental agreement, it is not open to the appellant to deny the title of the respondent. It is not the case of the appellant that the respondent has lost title subsequent to entering into rental agreement. Once the appellant denied the title of the respondent, they loose their right as tenant. Without surrendering the possession to the landlady, the tenant cannot deny the title of the landlady. Once the tenant has admitted the title of the landlady and became the tenant, he is not entitled to subsequently deny the title of the landlady without surrendering the possession to the landlady. Even if the title of the landlady is defective, he cannot challenge the title of the landlady without surrendering the possession to the landlady.

13(ii).The learned counsel for the respondent relied on the judgment of the Privy Council reported in AIR 1915 PC 96 (Bilas Kunwar vs Desraj Ranjit Singh and others), which reads as follows:

> . The other point in the case is one of estoppel. The property was let by the plaintiff to the defendant Ranjit Singh; he was let into possession by the plaintiff's gardener Bhairon, on her behalf and by her direction, and he regularly paid rent to her and applied to her to do all the necessary repairs; he has never given up possession to her although he duly received notice to quit, and he has denied her title. Section 116 of the Indian Evidence Act is perfectly clear on the point, and rests on the principle well established by many English cases, that a tenant who has been let into possession cannot deny his landlord's title, however defective it may be, so long as he has not openly restored possession by surrender to his landlord. The Subordinate Judge was clearly right on this point. The High Court appears to have been under some misapprehension, and counsel for the respondents have not attempted to support their Judgment on this point. Their Lordships are of opinion, and will humbly advise His Majesty, that the decree of the High Court should be reversed and that of the Trial Judge should be restored, and that the respondents should pay all the costs here and below. 13(iii).The appellant is estopped from denying the title of the respondent as per the provisions of Section 116 of Evidence Act. The appellant has no locus-standi to rely on the Urban Land Ceiling proceedings. The said proceedings are not completed and authorities did not take physical possession of the suit property.

The Panchayat Board issued notice dated 06.06.2008 to the respondent that the appellant and others are polluting the area and directed the respondent to stop pollution. The Government filed suit O.S.No.449 of 2013 restraining the respondent from collecting rent from the appellant. This shows that the respondent is in possession of the suit property. The Government has not filed suit for possession from the respondent. By G.O.Ms.No.657, Revenue Department, dated 19.04.1990, the Government allotted the land to M/S.Telace Plants and Equipment Private Limited, in which the respondent is having major shares. The Government, vide its letter called upon the said company to remit the amounts. In view of the said letter, the contention of the learned Senior Counsel for the appellants that the land is reverted back to the Government on the failure of the company to comply with the conditions imposed in the Government order in G.O.Ms.No.657, Revenue Department, dated 15.04.1990, is not correct. Earlier, four Second Appeals filed by the tenants in S.A.Nos.43, 945, 946 of 2012 and 245 of 2013 were dismissed. S.A.No.985 of 2016 filed by respondent challenging the judgment rejecting the relief of possession was allowed. One of the tenants filed S.L.P.No.37171 of 2012 against the dismissal of S.A.No.43 of 2012, dated 16.09.2012. The said S.L.P. was dismissed by the Hon'ble Apex Court on 04.10.2013. The said S.L.P. was dismissed after six months of order of dismissal of S.L.P.No.3946 of 2012, dated 01.04.2013 filed by the respondent.

13(iv).The contentions of both the learned Senior Counsel for the appellants and counsel for the appellant in S.A.No.908 of 2016 that in view of the order of dismissal of S.L.P.No.3946 of 2012, dated 01.04.2013 and review petition filed by the respondent on the ground that the Government has taken possession by notification, the respondent is not entitled to maintain the suits is untenable, as by subsequent order of the very same Bench of the Hon'ble Apex Court dismissed the S.L.P. filed by the tenant on the very same issue.

13(v).One of the tenants filed application for rejection of plaint under Order VII Rule 11 of C.P.C., on the ground that the suit is barred by law. The said application was dismissed. S.A.Nos.43, 945, 946 of 2012 and 245 of 2013 were dismissed. The respondent has taken possession from the tenant in S.A.No.946 of 2012 and Execution Proceedings filed against the tenant in S.A.Nos.43 and 946 of 2012 and 245 of 2013 are pending.

13(vi).In the present Second Appeals, in S.A.No.17 of 2017, the tenant has handed over possession to the respondent. In S.A.No.985 of 2016, the possession was taken through Court by filing E.P.
13(vii).There is no saving clause in Urban Land Ceiling Act. In view of the same, even the pending proceedings are lapsed as per the Repeal Act, 1999. The Constitutional Bench in the judgment reported in 2000 (2) M.L.J. 141 (S.C.) (Kolhapur Canesugar Works Ltd. and another v. Union of India and others), held that without saving clause, pending proceedings cannot be proceeded with. The authority did not take possession and therefore, proceedings initiated under Urban Land Ceiling proceedings are abated and property is not vested with the Government as physical possession is not taken from the appellant. The learned counsel for the respondent relied on paragraph No.38, which is extracted hereunder:

8. The position is well known that at common law, the normal effect of repealing a statute or deleting a provision is to obliterate it from the statute book as completely as if it had never been passed, and the statute must be considered as a law that never existed. To this rule, an exception is engrafted by the provisions Section 6(1). If a provision of a statute is unconditionally omitted without a saving clause in favour of pending proceedings, all actions must stop where the omission finds them, and if final relief has not been granted before the omission goes into effect, it cannot be granted afterwards. Savings of the nature contained in Section 6 or in special Acts may modify the position. Thus the operation of repeal or deletion as to the future and the past largely depends on the savings applicable. In a case where a particular provision in a statute is omitted and in its place another provision dealing with the same contingency is introduced without a saving clause in favour of pending proceedings then it can be reasonably inferred that the intention of the legislature is that the pending proceeding shall not continue but a fresh proceeding for the same purpose may be initiated under the new provision. 13(viii). The appellants are tenants of respondent. They have no locus-standi to challenge Urban Land Ceiling proceedings or can claim any benefit under the said proceedings. The said proceedings is between respondent and Government. The proceedings initiated under the Act was not completed and physical possession was not taken from the respondent till date. In view of Repeal Act, which came into force with effect from 06.06.1996, the proceedings was abated and authority has no right to take possession from the respondent. In support of his contentions, the learned counsel for the respondent has relied on the following judgments:

(i) 2014 AIAR (Civil) 453 (Sheela Jawarlal Nagori and another v. Kantilal Nathmal Baldota and others);

0. The question raised by the tenant is that the suit property was acquired by the Pune Municipal Corporation for the purpose of a primary school and the Special Land Acquisition Officer had passed an award in respect thereof on 3rd August, 1979. Accordingly, the landlord was divested of his right, title and interest in the suit property after the land acquisition proceedings and therefore a suit for eviction of the tenant was not maintainable.

11. The High Court noted that there was no material on record to suggest that the Pune Municipal Corporation had taken possession of the suit property from the landlord. On the contrary, the Corporation had sanctioned a development plan submitted by the landlord in respect of the suit property through a notification issued on 5th January, 1987. It is clear, therefore, that the Corporation had not taken possession nor had any intention of taking possession of the suit property.

12. That apart, Section 16 of the Land Acquisition Act, 1894 enables the acquiring authority to take possession of acquired land and when that is taken, it would be free from all encumbrances. Section 16 of the Land Acquisition Act, 1894 reads as follows:

> 6.Power to take possession - When the Collector has made an award under Section 11; he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.

Therefore, on a plain reading of the provision, in the absence of possession of the suit property being taken by the Corporation, the contention of learned counsel for the tenant cannot be accepted that the landlord was divested of his right, title or interest in the suit property.

13.We may also note that it was brought out during the course of hearing that the tenant continues to pay rent to the landlord even though according to the tenant the landlord had no concern with the suit property after the award was passed on 3rd August, 1979 by the Special Land Acquisition Officer. The stand of the tenant seems to be self-defeating for on the one hand it is submitted that the landlord had no right, title or interest in the suit property but on the other hand the tenant continues paying rent to him.

(ii) S.A.No.43 of 2012 dated 16.08.2012 (Radhalakshmi v. M/S.Preethi Enterprise represented by its Proprietor Mr.C.J.Francise, No.27, Sripuram colony I cross street, St.Thomas mount, Chennai-16);

0. It is seen that the writ petition was allowed and ordered as prayed for. The other writ petitions filed by various tenants, seeking an order to direct the Secretary, Department of Revenue, Government of Tamil Nadu, Secretariat, Fort St. George, Chennai, the first respondent and others for industrial purpose were dismissed. Aggrieved by which, writ appeals were preferred by M/s. R.Tech Industries represented by its Proprietor and others. A Division Bench of this Court, by Judgment, dated 15.11.2011 has held that in view of the Repeal of the Act, 1999 on the crucial date, 16.06.1999, all the proceedings including the possession taken over were abated and any order passed subsequent to 16.06.1999 was without jurisdiction. In such circumstances, the order passed by the learned single Judge was set aside and accordingly, the writ appeal was allowed. It is not in dispute that the respondent herein was not a party to the writ appeal. However, the relief sought for in the suit relating to the second appeal is different.

21. Mr.P.Subba Reddy, learned counsel appearing for the appellant submitted that the disposal of the writ appeal is nothing to do with the second appeal and the substantial questions raised in the second appeal. According to the learned counsel appearing for the appellant, in view of the Act, being repealed, the appellant continuous to be the owner of the property and the Court has to presume that the constructive possession is with the appellant. The respondent is claiming right only as tenant under the appellant in respect of possession of the property. However, contra to the plea, the respondent contended that the appellant was not in possession of the property as on 01.03.2005, since the Government had taken over the possession by virtue of the proceeding initiated under the Tamil Nadu Urban Land (Ceiling and Regulation) Act. Had it been true, the respondent would not be entitled to claim that he is in possession and enjoyment of the property as tenant. As contended by he learned counsel for the appellant, though the respondent is claiming right as tenant, he has not paid rent to the landlady from August 2008 to till date, for about 46 month, which comes to more than Rs.6,00,000/-, however, without paying any rent, for about 4 years, the respondent has raised an unsustainable plea of disputing the title of the appellant /

landlady and claiming right of possession against the relief sought for in the suit by the appellant / landlady.

(iii) 2013 (1) CTC 799 in (M/S.Rehobath Garment Process represented by its Proprietor Mr.P.Joseph Rajasekar, No.26, Thilakar street, Nandavanamettur, Avadi, Chennai-71 v. Radha Lakshmi);

3. Though the section does not recite exceptions to the rule, judicial pronouncements have recognized certain exceptions. They are as follows:

> The estoppel is restricted to the denial of the title of the landlord at the commencement of tenancy and it shall be open to the tenant to show that since the date of tenancy the title of the landlord came to an end or that he was evicted by a paramount title holder or that even though there was no actual eviction or dispossession from the property, under a threat of eviction he had attorned the tenancy to the paramount title holder. This was held so by the Supreme Court in D.Satyanarayana Vs. P.Jagadish reported in (1987) 4 Supreme Court Cases 424. Of course, it is true that the rule of estoppel is not attracted if the tenant contends that since (subsequent to) the date of commencement of tenancy the title of the landlord has come to an end. The appellant/defendant seems to rely on the said enunciation of principle providing an exception to the rule of estoppel found in Section 116 of the Evidence Act. But the appellant/defendant has not contend that the title of the respondent/plaintiff after the commencement of the tenancy had come to an end and that hence, he is entitled to deny and dispute the title of the landlord. On the other hand the appellant/defendant has contended that even before the inception of the tenancy, the Government took over the property under the provisions of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978.

14. The above said contention seems to have been taken on a misconception and misconstruction of the above said exception provided to the rule of estoppel found in Section 116 of the Evidence Act. According to the exception, only the loss of title by the landlord subsequent to the inception of tenancy can be pleaded as an exception to the rule of estoppel. On the other hand, whatever be the defective title which the landlord would have held at the time of creation of tenancy, the tenant shall be estopped from pleading that defect as a ground for denying the relationship of landlord and tenant. Similarly, eviction by the paramount title holder or a threat of eviction by the paramount title holder can also provide an exception to the rule of estoppel provided, on eviction or on the threat of eviction the tenant has attorned tenancy in favour of the paramount title holder. None of the above said exceptions stands attracted to the case of the appellant herein. On the other hand, it is the contention of the appellant that though the appellant/defendant took the property from the respondent/plaintiff on lease under Ex.A1, subsequently he came to know that the property did not belong to the respondent/plaintiff even as on the date of entering into the tenancy agreement and that the property itself had been taken by the Government under the provisions of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978. The same will not fall under the exemption to the rule of estoppel provided under Section 116 of the Evidence Act. Such a contention is squarely hit by

the rule of estoppel found in Section 116 of the evidence Act.

.. ..

.. ..

18. If possession was taken by the Government and the property stood vested with the Government in 1983 itself, it is not known as to how the respondent/plaintiff came to be in possession of the same in 2007 to lease it out to the appellant/defendant under Ex.A1. Hence, it is crystal clear that what the appellant/defendant pleads is the absence of title or defect in title of the respondent/plaintiff (landlord) even as on the date of creation of the tenancy. Having entered into a tenancy agreement with the respondent/plaintiff acknowledging her right to give the property on lease to the appellant/defendant, he is not entitled to cite the defect in title, as on the date of creation of tenancy, for the renunciation of the tenancy agreement itself. It is not the case of the appellant/defendant that subsequent to the creation of tenancy under Ex.A1, the respondent/plaintiff lost whatever title or right she was having on the date of Ex.A1 and thus, his case comes under the exemption to the rule of estoppel. It is also not the case of the appellant/defendant that subsequent to Ex.A1, he was evicted by the Government or due to threat of eviction by the Government he had attorned the tenancy in favour of the Government. As such, the rule of estoppel contemplated under Section 116 of the Evidence Act squarely applies and the appellant/defendant is estopped from denying the title of the landlord, namely the respondent/plaintiff. As he has chosen to deny the tile of the landlord and thereby renounced his position as a tenant he has suffered forfeiture of his right and the respondent/plaintiff is justified in seeking ejectment on the ground of forfeiture. The Courts below have arrived at the correct conclusion in this regard. Hence, the first and second substantial questions of law framed above are answered against the appellant and in favour of the respondent, holding that they were rightly decided by the Courts below and that there is no infirmity or defect in finding of the courts below in this regard.

(iv) S.A.No.245 of 2013, dated 05.04.2013 (M/s Indus Heaters, Rep. By D.Suresh S/o Durairaj R.M.No.20, Teleflo Mini Industrial Estate No.3/88, Mount Poonamallee High Road Ramavaram Village, Chennai 600 089 v. K.Radhalakshmi and another);

0. The learned counsel for the appellant would pyramid his argument, which could succinctly and precisely be set out thus:

> The plaintiffs, having lost their title and possession over the suit property, holus bolus of their own accord as though they were having carte blanche to lease out the suit property, over which they did not have had any right, leased out it in favour of the defendant and the defendant on coming to know of the realities, highlighted the same and sent reply to the pre suit notice for eviction issued by the plaintiffs. In such a case, both the Courts below without appreciating the true purport of the case, simply invoking Section 116 of the Indian Evidence Act ordered eviction, warranting interference in the Second Appeal.

11. At this juncture, I would like to refer to the recent decision of the Hon'ble Apex Court reported in 2012 (8) SCC 148 [Union of India v. Ibrahim Uddin and another]; an excerpt from it would run thus:

> "59. Section 100 CPC provides for a second appeal only on the substantial question of law. Generally, a second appeal does not lie on question of facts or of law. In SBI v. S.N.Goyal (2008) 8 SCC 92, this Court explained the terms "substantial question of law" and observed as under: (SCC p.103, para 13) "13.....The word "substantial" prefixed to 'question of law' does not refer to the stakes involved in the case, nor intended to refer only to questions of law of general importance, but refers to impact or effect of the question of law on the decision in the lis between the parties. 'Substantial questions of law' means not only substantial questions of law of general importance, but also substantial question of law arising in a case as between the parties .....any question of law which affects the final decision in a case is a substantial question of law as between the parties. A question of law which arises incidentally or collaterally, having no bearing on the final outcome, will not be a substantial question of law.....There cannot, therefore, be a straitjacket definition as to when a substantial question of law arises in a case."

(emphasis added) As such it has to be seen as to whether any substantial question of law is involved.

12. Indubitably and indisputably, unarguably and unassailably, the defendant pulling no punches admitted that he entered into possession of the vacant site under the plaintiffs as per the written lease agreement dated 01.08.2002 and in such a case, this is a case which is squarely not covered by the Tamil Nadu Buildings (Lease and Rent Control) Act. The admitted fact is that the vacant site was leased out by the plaintiffs in favour of the defendant. The plaintiffs properly issued statutory notice invoking Section 111(g)(2) of the Transfer of Property Act, because the defendant started disputing the title of the plaintiffs. Both the Courts below appropriately and correctly appreciating the facts, invoked Section 116 of the Indian Evidence Act. It might be so that under the Tamil Nadu Urban Land (Ceiling & Regulations Act, 1978), proceedings, the Government might have taken the suit property, but the defendant is having nothing to do with such proceedings. If at all there is any dispute, it is between the Government and the plaintiff. But the defendant who entered into possession of the vacant site under the plaintiff cannot set up any plea disputing the title of the plaintiffs. As such, in this factual matrix, there is no question of law, much less substantial question of law is involved.

(v) AIR 1996 SCC 1654 (Joginder Singh and another v. Smt.Jogindero and others);

. Late Surain Singh and Respondent Bur Singh did not seriously dispute that they were not tenants under Smt. Soman in respect of the land in dispute and adduced no evidence in that behalf. On the contrary Khasra Girdawari Ext.P.6 clearly indicated that the deceased Surain Singh (who is represented by his legal representatives in this appeal) and Bur Singh were tenants under Smt. Soman with regard to the land in suit. This being the position the tenants could not be permitted to deny or dispute the title of the owner. This is a settled view that having regard to the provisions of

Section 116 of the Evidence Act no tenant of immovable property or person claiming through such tenant shall, during the continuance of the tenancy, be permitted to deny the title of the owner of such property. In this connection it would be relevant to make a reference to the decision of this Court in Veerraju Vs. Venkanna [1966 (1) SCR 831 (839) = AIR 1966 SC 629] wherein this Court, with reference to the decision of Privy Council took the view as under:-

> "A tenant who has been let into possession cannot deny his landlord's title, however defective it may be, so long as he has not openly restored possession by surrender to his landlord".

(vi) AIR 1976 SCC 2335 (Sri ram pasricha v. Jagannath and others);

5.There are two reasons for our not being able to accept the above submission. Firstly, the plea pertains to the domain of the frame of the suit as if the suit is bad for non-joinder of other plaintiffs. Such a plea should have been raised, for what it is worth, at the earliest opportunity. It was not done. Secondly, the relation between the parties being that of landlord and tenant, only the landlord could terminate the tenancy and institute the suit for eviction. The tenant in such a suit is estopped from questioning the title of the landlord under section 116 of the Evidence Act. The tenant cannot deny that the landlord had title to the premises at the commencement of the tenancy. Under the general law, in a suit between landlord and tenant the question of title to the leased property is irrelevant. It is, therefore, inconceivable to throw out the suit on account of non-pleading of other co-owners as such.

(vii) AIR 2004 Madras 398 (K.Krishnan and another Vs. Idol of Sree Muniswaraswamy and others):

> 0.Under the stated circumstances, both the courts below have recorded a concurrent finding that the defendants was the tenant of the plaintiffs. Once the defendants are found to be the tenant of the plaintiffs landlord, they were estopped from questioning title of the plaintiffs as to the ownership. This Court is unable to notice any reason to disturb the concurrent finding of both the courts below.
>
> 14.Heard the learned Senior Counsel for the appellants in all the Second Appeals, learned counsel for the appellant in S.A.No.908 of 2016 as well as learned counsel for the respondent and perused the materials available on record.
>
> 15.Substantial Questions of Law:
>
> The following are the admitted facts from the materials on record:
>
> (1)The respondent purchased 1.75 acres in Survey No.151 in Ramapuram Village, Ambattur Taluk, Tiruvallur District, by the sale deed dated 01.01.1976.
>
> (2)Proceedings were initiated under Urban Land Ceiling Act for acquiring excess land.

(3)The respondent constructed 47 industrial sheds and leased out to various third parties, including appellants in all the Second Appeals.

(4)The appellants have entered into separate rental agreements with respondent, taking industrial sheds on lease from the respondent for running their business.

(5)The lease is for three years. The appellants paid advance and monthly rent was also fixed. After expiry of three years, lease was not renewed and appellants continued to be in possession as tenants of the respondent. The appellants paid monthly rent up to May 2008.

(6)They stopped paying rent to the respondent on the ground that there is dispute about the title of the respondent.

(7)The respondent issued notice terminating the tenancy and called upon the appellants to vacate and deliver vacant possession of the suit property.

16. The appellants resisted the suits filed by the respondent for evicting them on the ground that the respondent is not owner of suit property even before they entered into lease agreement and became tenants and took possession of the suit property. They entered into lease agreements on the misconception of the respondent that she is owner of the suit property. Subsequently, they came to know that the property is vested with the Government as per the proceedings taken under Urban Land Ceiling Act and Government became owner of the property. According to the appellants, denial of title by the appellants is bonafide and valid. Section 116 of the Indian Evidence Act is not applicable.

17.Both the learned Senior Counsel for the appellants and learned counsel for the appellant in S.A.No.908 of 2016 referred to the counter affidavit filed by the Government in W.A.No.28993 of 2007, wherein it has been stated that the Government has taken possession of excess land in the year 1983. The respondent has also admitted that possession was handed over to the Government and excess land was allotted to M/S.Telace Plants and Equipments Private Limited, on conditions contained in G.O.Ms.No.657, Revenue Department, dated 19.04.1990. The said company failed to comply with the conditions imposed and the land was reverted back to the Government. The respondent filed W.P.No.28993 of 2007 for declaration that she is entitled to retain the land measuring an extent of 4131.598 sq.m in Survey No.151/1 part, Ramapuram village as per Section 3 (2) of Repeal Act. This Court allowed the said Writ Petition. The appellant and some of the tenants filed W.A.No.554 of 2011, challenging the said order. The Division Bench of this Court allowed the said Writ Appeal on the ground that possession was taken by the Government. S.L.P.No.3946 of 2012 filed by the respondent was dismissed by the Hon'ble Apex Court. The Review Petition filed by the respondent was also dismissed. In view of the judgment of the Division Bench in W.A.No.554 of 2011, order passed by the Hon'ble Apex Court in S.L.P and Review Petition, the respondent is not owner of the suit property and she is not entitled for the relief sought for in the suit and suit is not maintainable. Both the learned counsel for the appellants contended that denial of title of the respondent by the appellants is bonafide and Section 116 of the Indian Evidence Act is not

applicable to the claim of the respondent.

18.From the above contentions of both the learned counsel for the appellants, it is clear that the appellants have entered into lease agreements with the respondent on 15.10.1997, 01.08.2006, 01.04.2005, 01.10.2001, 01.08.2003, 05.08.1997, 01.03.2004, 01.06.2004, 01.09.2004, 01.10.2000 and 15.09.2003. They took possession of the suit property only from the respondent and it is the respondent who inducted the appellants as tenants. In view of the same, Section 111 of Transfer of Property Act is the provision applicable for the termination of lease of the appellants, as they have taken immovable property on lease from the respondent. The respondent issued notice terminating the tenancy. The appellants sent a reply denying the title of the respondent and set up the title of the Government. In such case, the appellants have forfeited their right as tenants and respondent has rightly claimed eviction on the forfeiture clause contained in Section 111(g) of the Act. The appellants have admitted that they became tenants under the respondent, admitting the respondent as owner of the suit property. It is not the case of the appellants that respondent lost her title subsequent to they became tenants of the respondent.

19.The appellants are estopped as per Section 116 of the Indian Evidence Act from denying the title of the respondent after becoming tenants under the respondent during the tenancy.

Section 116 of Indian Evidence Act reads as follows:

> 16. Estoppel of tenant; and of licensee of person in possession.- No tenant of immovable property, or person claiming through such tenant, shall, during the continuance of the tenancy, be permitted to deny that the landlord of such tenant had, at the beginning of the tenancy, a title to such immovable property; and no person who came upon any immovable property by the licence of the person in possession thereof shall be permitted to deny that such person had a title to such possession at the time when such licence was given.

20.A reading of the said Section shows that a tenant cannot deny the title of the landlady at the commencement of the tenancy. There is no exception mentioned in the said section. But as per Judicial pronouncement, especially in the judgment of the Hon'ble Apex Court reported in (1987) 4 Supreme Court Cases 424 (D.Satyanarayana Vs. P.Jagadish), the following are the exceptions by which the tenants can deny the title of the landlord:

> 1.When the landlord lost the title subsequent to the tenancy.
>
> 2.When the paramount title owner has taken steps to evict the tenant or there is a threat of eviction.
>
> 3.The tenant has attorned tenancy to the paramount title holder on the threat of eviction.

None of these conditions exist in the present case. It is the case of the appellants that even before commencement of tenancy, the respondent lost her title and she was not landlord on the date appellants became tenants. As per Section 116 of the Indian Evidence Act, a tenant is not entitled to deny or question the title of a landlord at the time of commencement of tenancy. However, defective the title of the landlord, tenant is not entitled to deny or dispute the title after accepting the title and becoming tenant.

21.Both the learned counsel for the appellants contended that the Government has taken over possession of the suit properties and relied on the letter obtained by the appellants under Right to Information Act, which was marked as appellant's document during trial, wherein it has been stated that the Government has taken possession of the suit property on 05.08.1983. The appellants have not taken any steps to examine any Officer from the office of Public Information /Assistant Commissioner, Urban Land Tax, Kundrathur, Chennai 600 088, to prove that proceedings under Urban Land (Ceiling and Regulation Act, 1978) had been completed before the said Act was Repealed in the year 1999. The appellants have not produced any 'B' memo issued to them or any document from Government, calling upon them to pay rent or vacate and deliver vacant possession to Government.

22.From the materials on record, it is clear that respondent was in possession of the suit property even after initiation of proceedings under the Urban Land Ceiling Act, 1978 and alleged possession had been taken in the year 1983 itself. The respondent has put up individual sheds in the suit properties and let out the same to various tenants including appellants from the date of their rental agreements onwards. Having taken possession from the respondent, it is not open to the appellants to contend that Government has taken over the land and respondent was not in possession after 1983. It is also pertinent to note that appellants have paid rent to the respondent till May 2008. It is not the case of the appellant that Government threatened to evict them and they attorned tenancy of the Government. Admittedly, the appellants have not paid rent either to the respondent or to the Government. They have deposited rent only as per the orders of this Court as a condition for grant of stay. All the facts considered in entirety shows that the respondent is in possession of the suit property and physical possession was not taken by the authority as on 16.06.1999, when the Repeal Act came into force.

23.The respondent filed W.P.No.28993 of 2007 for declaration that she is entitled to retain the land declared as excess as she is in possession of the same when Repeal Act came into force. The Writ Petition was allowed. According to both the learned counsel for the appellants, W.A.No.554 of 2011 filed by the tenants challenging the order passed in the Writ Petition was allowed on the ground that the respondent surrendered possession to the authority and that S.L.P and Review Petition filed by the respondent were dismissed and therefore, the respondent is not in possession after 1983. A reading of the judgment of the Division Bench of this Court dated 11.04.2011 made in W.A.No.554 of 2011 shows that the Writ Appeal was allowed on the ground that any order passed by the Authorities after 16.06.1999 is without jurisdiction and that all the proceedings taken under Urban Land Ceiling Act, 1978 is abated on 16.06.1999 when the Repeal Act came into force. It is also seen that the Division Bench did not consider the claim of the respondent that she is in possession when the Repeal Act came into force and no order was passed rejecting the said claim of the respondent.

Therefore, the judgment of the Division Bench and dismissal of S.L.P by the Hon'ble Apex Court are not a ground to claim that the respondent has lost her title and Government has become owner.

24.Further, the proceedings under the Urban Land Ceiling Act, 1978, is between owner and authorities and it is not open to the appellants to challenge the acquisition proceedings or claim that respondent has lost her title even before the tenancy commenced. For the above reason, Section 111(g) of the Transfer of Property Act and Section 116 of the Indian Evidence Act are squarely applicable to the facts of the present case. By denial of title of the respondent, the appellants do not come under any of the exception enumerated by Judicial pronouncement and the respondent is liable to be evicted from the suit property.

25.All the above issues raised by both the appellants as well as the respondent were elaborately considered by this Court in the judgment dated 04.10.2012 made in S.A.Nos.945 and 946 of 2012 filed by the tenants and S.A.No.43 of 2012 dated 16.08.2012 filed by the respondent, decided in favour of the respondent and held that respondent is entitled to claim as prayed for in the suit.

26.The contention of both the learned counsel for the appellants that these judgments were delivered before the order of the Hon'ble Apex Court dated 01.04.2013, dismissing S.L.P.No.3946 of 2012 filed by the respondent challenging the judgment of this Court in W.A.No.554 of 2011. As already stated above, the Division Bench of this Court in the judgment made in W.A.No.554 of 2011, did not consider the claim of the respondent with regard to her possession and did not reject the same. The said Writ Appeal was allowed on the ground that any order that may be passed by the authorities after 16.06.1999 will be without jurisdiction. The said judgment was challenged by the respondent in S.L.P.No.3946 of 2012 and the same was dismissed, confirming the said judgment. In the said order, the Hon'ble Apex Court has stated that the Division Bench of this Court has recorded a finding that the respondent surrendered possession of surplus land in the year 1983, it was subsequently allotted to M/S.Telace Plants and Equipments Private Limited by G.O.Ms.No.657, Revenue Department, dated 19.04.1990. Subsequently, the Hon'ble Apex Court by the order dated 04.10.2013 made in S.L.P.No.37171 of 2012 filed by one of the tenants against the judgment made in S.A.No.43 of 2012, dismissed the said S.L.P, confirming the judgment of this Court dated 16.08.2012 made in S.A.No.43 of 2012 and decreed the suit filed by the respondent for evicting the tenants therein. In view of the subsequent order of the Hon'ble Apex Court confirming the judgment of this Court granting decree of eviction, the appellants are not entitled to claim that respondent is not owner of the suit property.

27.In the judgment dated 05.04.2013 made in S.A.No.245 of 2013, wherein the respondent herein was first respondent, this Court held that the proceedings under Urban Land Ceiling Act is between the land owner and the Government. A tenant who had entered into possession under the respondent cannot set up any plea disputing the title of the respondent. This Court in the said judgment also considering the facts of the case, which are similar to the facts of this Court, held that no Substantial Questions of Law has arisen in the Second Appeal. This judgment was passed by the Court after the order of the Hon'ble Apex Court dated 01.04.2013 made in S.L.P.No.3946 of 2012. For the above reasons, all the Substantial Questions of Law are answered in favour of the respondent and against the appellants.

28.In the result, all the Second Appeals are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

31.07.2018

Index : Yes

Speaking Order : Yes/No

gsa/kj

To
1.The Principal District Judge, Thiruvallur.
2.The Subordinate Judge, Poonamallee.

V.M.VELUMANI, J.

gsa/kj

Pre-Delivery Judgement made in
S.A.Nos.676 to 678, 701, 742, 743,
892 to 894, 908, 985 of 2016 and 17 and 18 of 2017

31.07.2018