

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).12884-12887 OF 2024
(ARISING OUT OF S.L.P (CIVIL) NO(S).27753-27754 OF 2024)
[@ DIARY NO.1698/2023]

THIRUGNANAM (DIED) THROUGH HIS LRS. & ANR. APPELLANT(S)
VERSUS
KARUPPAN (DIED) THROUGH HIS LRS. & ANR. RESPONDENT(S)

O R D E R

1. We find from the office report that the notice has been served to the respondents. However, none appears for the respondents.
2. Heard the learned senior counsel appearing for the appellants.
3. Delay condoned.
4. Leave granted.
5. The predecessor of the appellants was the plaintiff in a suit bearing O.S. No.62/1996 and the respondents were the plaintiffs in a suit bearing O.S. No.144/1996. The dispute which survives for consideration is only as regards 'C' and 'D' schedule properties described in the suit bearing O.S. No.144/1996. The suit filed by the appellants was simplicitor for injunction based on title. Even the suit filed by the respondents as regards 'C' and 'D' schedule properties was for injunction based on title. That is very clear from the issue

no.7 framed in the suit bearing O.S. No.144/1996. The appellants failed in their suit filed before the Trial Court and in the appeal before the First Appellate Court. The suit filed by the respondents was decreed by the Trial Court by granting injunction in respect of four properties including 'C' and 'D' schedule properties restraining the present appellants from causing any obstruction to the separate possession of the respondents.

6. In the appeals preferred by the present appellants before the District Court, there is a clear finding recorded that both the parties have not established their title in respect of 'C' and 'D' schedule properties. However, both the Courts concurrently found that the respondents were in possession of 'C' and 'D' schedule properties. It appears from the impugned judgment in the second appeal preferred by the appellants that the dispute was raised only as regards 'C' and 'D' schedule properties.

7. When the respondents filed a suit for injunction based on title and when they failed to establish their title, the Trial Court ought not to have granted injunction in respect of 'C' and 'D' schedule properties. However, there is a concurrent finding of fact that the respondents are in possession. Though the decree of injunction cannot be sustained, it is obvious that the present appellants cannot dispossess the respondents from 'C' and 'D' schedule properties without following the due process of

law.

8. Therefore, the decree passed in the Suit bearing O.S. No.62/1996 is confirmed and the decree passed in the Suit bearing O.S. No.144/1996 is hereby set aside and the suit is dismissed.

9. The Appeals are partly allowed on the above terms.

.....J.
(ABHAY S. OKA)

.....J
.
(AUGUSTINE GEORGE MASIH)

NEW DELHI;
NOVEMBER 21, 2024.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) DIARY NO(S). 1698/2023

[Arising out of impugned final judgments and orders dated 25-07-2002 in SA No. 1206/2002 and SA No. 1207/2002 and dated 31-01-2022 in RA (MD) No. 13/2008 in SA No. 1206/2002 and RA (MD) No. 14/2008 in SA No. 1207/2002 passed by the High Court of Judicature at Madras at Madurai]

THIRUGNANAM (DIED) THROUGH HIS LRS. & ANR.

Petitioner(s)

VERSUS

KARUPPAN (DIED) THROUGH HIS LRS. & ANR.

Respondent(s)

(IA No. 42130/2023 - CONDONATION OF DELAY IN FILING, IA No. 42131/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 42132/2023 - EXEMPTION FROM FILING O.T. AND IA No. 42133/2023 - CONDONATION OF DELAY IN REFILING/CURING THE DEFECTS)

Date : 21-11-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA

HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Petitioner(s) Mr. R. Balasubramanian, Sr. Adv.
Ms. Subasri Jaganathan, Adv.
Mr. Anubhav Jain, Adv.
Mr. Kumar Dushyant Singh, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

Leave granted.

The Appeals are partly allowed in terms of the signed order.

Pending applications stand disposed of accordingly.

(ASHISH KONDLE)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)

[THE SIGNED ORDER IS PLACED ON THE FILE]