

(2017) 01 MAD CK 0142
In the Madras High Court
Case No : A.S. No. 974 of 2015

Sri Ayyappa Seva Samajam

APPELLANT

Vs

Commissioner Hindu Religious and Charitable Endowments
(Administration) Department Nungambakkam

RESPONDENT

Date of Decision : 02-01-2017

Acts Referred:

Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 — Section 110,
Section 6(18), Section 6(20), Section 63(a), Section 70

Citation : (2017) 1 CTC 212 : (2017) 1 MLJ 465

Hon'ble Judges : Mr. R. Subramanian, J.

Bench : Single Bench

Advocate : Mr. T.R. Rajagopalan Senior Counsel for Mr. A.V. Arun, Advocate, for the Appellant; Mr. R. Venkataramani Addl. Advocate General, Assisted by Mr. R.P. Pratap Singh, Govt. Advocate HR and CE, for the Respondents

Final Decision : Allowed

Judgement

Mr. R. Subramanian, J. - The plaintiff in O.S. No. 12857 of 2009 on the file of the XII Assistant City Civil Judge, Chennai is the appellant. The said suit was filed under Section 70 of the Tamil Nadu Hindu Religious and Charitable Endowment Act 1959.

2. The facts which necessitated filing of the suit are as follows :

The plaintiff is the Society registered under Tamil Nadu Societies Registration Act, 1975. It was founded with an object of promoting cult of Lord Ayyappa irrespective of Religion, Caste, Creed or Community. The other objects of the society also includes giving educational assistance to the poor children, food to poor, establishment of educational institutions, hospitals, home for aged and disabled, providing medical assistance and education to poor, arrangement of periodical discourse and lectures and to do other charitable activities that would promote public harmony. A Medical Center was also established by the society to cater to the needs of poor cancer patients.

3. The plaintiff society applied for allotment of a plot of land to the Tamil Nadu Housing Board for construction of its own premises and a temple for Lord Ayyappa, in order to achieve its main object of promoting Ayyappa cult. Accordingly a plot of land was allotted to the plaintiff society. From the contributions of the members of the society, a temple for Lord Ayyappa and Office premises for the plaintiff society were constructed. The proposal for construction of a temple was mooted in the Annual General Body meeting of the society held on 27.09.1981 and the construction was completed in the year 1984.

4. According to the plaintiff, the temple activities are sustained by the contribution of the members of the plaintiff society. While so, according to the plaintiff, the Assistant Commissioner HR and CE had issued a notice requiring the plaintiff to show cause as to why non-hereditary trustees should not be appointed to the plaintiff temple in terms of Sections 47,48 and 49 of the Tamil Nadu Hindu Religious and Charitable Endowment Act 1959. In and by the said notice, the Assistant Commissioner, HR and CE also required the plaintiff to submit statutory reports under Section 116 (2) and (10) of the Act. The plaintiff had sent a reply to the said notice and eventually moved the Joint Commissioner HR and CE, Chennai under Section 63(a) of the Act in O.A. No.8 of 1987 seeking declaration that the temple of Lord Ayyappa constructed by the plaintiff society is not a Religious Institution within the meaning of Sub-Section 18 of Section 6 read with Sub-Section 20 of Section 6 of the Tamil Nadu Hindu Religious and Charitable Endowment Act. The Joint Commissioner, HR and CE, Administration Department, who heard the said application dismissed the same by an order dated 25.04.2001.

5. Aggrieved by the said order, the plaintiff society had preferred an appeal before the Commissioner HR and CE, Chennai in A.P. No. 23 of 2001. The said appeal was also dismissed by the Commissioner, HR and CE Department Chennai on 28.04.2009. Both the Original Authority, namely, the Joint Commissioner and the Appellate Authority namely, the Commissioner had found that the temple in question is a religious institution within the meaning of Sub Section 18 of Section 6 of the Tamil Nadu Hindu Religious and Charitable Endowment Act 1959. The said conclusion is based, primarily, on the basis of the report of the Inspector of HR and CE Department dated 19.02.1989. Certain statements recorded from a few persons by the Inspector of the HR and CE Department, have also been relied upon by the authorities to sustain their conclusion that the temple in question is a religious institution.

6. In fact, the Secretary of the petitioner society was examined as a witness before the Original Authority, namely, the Joint Commissioner HR and CE and the Inspector of HR and CE Department was examined as CW1. Against the order of the Commissioner HR and CE made in A.P. No. 23 of 2001 dated 28.04.2009, the plaintiff has filed the above suit under Section 70 of the Tamil Nadu Hindu Religious and Charitable Endowment Act 1959. The plaintiff would contend that the temple in question has been built on the land belonging to the Society.

Though it is constructed according to Agama Shastras and also following the temple Architecture prevalent in Kerala, it has never been dedicated to the public. A board has been placed in the temple premises informing the public that rights of admission reserved.

7. It is the further contention of the plaintiff that Hundials are not placed in the premises of the temple, but are placed in the office of the society. The conditions are used for other secular activities of the plaintiff society. People belonging to other religions are also members of the society and the very object of the plaintiff society is to promote Ayyappa cult without any distinction on the basis of religion, caste, creed or community. On the above contention, the plaintiff would claim that the temple is not a religious institution as defined under Sub-Section 18 of Section 6 of the Hindu Religious and Charitable Endowment Act. Therefore, the defendants namely, Commissioner HR and CE, Hindu Religious Charitable Endowment Administration Department, cannot have any say in the matters of management of the temple in question.

8. In the suit the plaintiff sought for declaration that the plaintiff society and the Ayyappa temple situated at Plot No. C, 49, 2nd Avenue, Anna Nagar, Chennai are not Religious Institutions as defined in the Tamil Nadu Hindu Religious and Charitable Endowment Act 1959, and the prayer for setting aside the orders of Commissioner in A.P. No. 32 of 2001 dated 28.4.2009 confirming the order of the Joint Commissioner made in O.A. No. 8 of 1987 dated 25th April 2001 was also made.

9. The defendant in the suit namely, Commissioner Hindu Religious and Charitable Endowment Department resisted the suit contending that the temple in question is a Religious Institution. The temple being situated in a busy locality in Chennai and the same having been constructed according to the Agama Shashtra following the Architecture design in Lord Iyyappa Temple situated in Kerala with Dwajasthambam, would denote that the temple meant for public worship.

10. It was further contended by the defendant that the people living in the area, examined by the Inspector of HR & CE had claimed that they had been worshipping in the temple and on the basis of the said evidence and report, the authorities have come to the conclusion that the temple is a Public Temple and is an Religious Institution within the meaning of Sub Section 18 of Section 6 of the Tamil Nadu Hindu Religious and Charitable Endowment Act. On the above materials the defendant had come to the conclusion that the temple is a Public Temple and a Religious Institution falling within the purview of the Tamil Nadu Hindu Religious Charitable Endowment Administration Department and the Department has got every right to appoint non-hereditary trustees. On the above contentions the defendant sought for dismissal of the suit.

11. Before the Trial Court, PW1 and 2 were examined on the side of the plaintiff. PW1 is the Secretary of the plaintiff Society and PW2 is the President. Exs.A1 to

A14 were marked. On the side of the defendant one Ravi, who was the Inspector of the HR and CE Department was examined as DW1 and Exs.B1 and B2 were marked. The learned Trial Judge framed the following issues in the suit :

1. Whether the plaintiffs are the sons of deceased Ponnusamy Mudaliar out of the legal wedlock between Ponnusamy Mudaliar and the 11th defendant ?
2. Whether the properties scheduled in the plaint are joint family properties of S.K. Ponnusamy Mudaliar and his brothers ?
3. Whether the properties owned by S.K. Ponnusamy Mudaliar was bequeathed in favour of defendants 1 and 6 as per the Will dated 08.05.1991 ?

12. The learned Trial Judge on a consideration of oral and documentary evidence agreed with the conclusion of the authorities that the temple in question is a Religious Institution and as such the Tamil Nadu Hindu Religious and Charitable Endowment Administration Department has got right to manage the affairs of the temple. Aggrieved by the said judgement and decree of the Trial Court, the plaintiff society has come forward with the present appeal.

13. I have heard Mr. T.R. Rajagopalan learned Senior Counsel assisted by Mr. AV. Arunan, learned counsel for the appellant and Mr. R. Venkataramani, learned Additional Advocate General assisted by Mr. R. Pratap Singh, learned Government Advocate for the respondent.

14. From the grounds of appeal as well as submissions the learned Senior Counsels appearing for either side, the following points are framed for determination in this appeal

1. Whether the order of the Commissioner HR and CE Department dated 28.04.2009 in A.P. No. 23 of 2001 confirming the order of the Joint Commissioner dated 25.04.2001 made in A.P. No. 8 of 2001 is liable to be set aside ?
2. Whether the suit temple is a public temple or private temple ?
3. Whether the plaintiff is entitled to a declaration as prayed for ?

15. Before going into rival contentions, it will be useful to extract certain important definitions in the Tamil Nadu Hindu Religious Charitable Endowment Act 1959. Sub Section 18 of Section 6 defines a "Religious Institution" as follows :

Section 18 "Religious Institution" means a math, temple or specific endowment"

Sub Section 20 of section 6 of the HR and CE Act 1959 defines "temple", which reads as follows : "Temple" means a place by whatever designation known, used as a place of public religious worship and dedicated to, or for the benefit of, or used as of right by, the Hindu Community or of any Section thereof, as a place of Public Religious Worship"

Explanation : Where a temple situated outside the State has properties situated within the State, control shall be exercised over the temple in accordance with the provisions of this Act, in so far as the properties of the temple situated within the State are concerned.

16. There is no dispute that in the case on hand what is sought to be termed to be a Religious Institution within the meaning of Sub-Section 18 is a temple and it is the claim of the defendant that Iyyappa temple at Anna Nagar is a temple within the meaning of Sub-Section 20 of Section 6 of the Act. Therefore, the department would have the right to administer the same. Relying upon the afore said definition and the tests laid down by the Hon"ble Supreme Court as well as this Court in various decisions, Mr. T.R. Rajagopalan, learned Senior Counsel appearing for the appellant would contend that the temple in question cannot be termed as a place of public Religious Worship and in the absence of proof of dedication, user as of right, as a place of public religious worship by the Hindu Community or of any Section thereof, the Iyyappan Temple in question cannot be said to be a temple falling within the definition of Sub-Section 20 of Section 6 of the HR and CE Act.

17. According to the learned Senior Counsel one of the essential requirements as seen from the definition of "temple", under Sub Section 20 Section 6 is that it should be a place of public religious worship and the Hindu Community or any Section thereof should have used the premises as a place of Public Religious Worship as of right. Therefore, a temple which falls under Subsection 20 of Section 6 of the Act, appropriately be called as a public temple. If the essential ingredient namely, worship by the public as of right is not satisfied, then it becomes a private temple. Therefore, it has to be determined as to whether the suit temple namely, Iyappa temple at Annanagar is a public temple or a private temple. Mr. T.R. Rajagopalan, learned Senior Counsel appearing for the appellant would rely upon a judgement of the Division Bench in The Commissioner, Hindu Religious and Charitable Endowments Board, Nungambakkam, Madras-34 and another v. T.S. Palanichami and seven others reported in 2003 (1) CTC 65 and contend that the character of the temple has to be decided based on the evidence adduced in each and every case and the crucial factor for determining the character of the temple is whether, there has been dedication to public and the right of public to offer worship at the temple as a matter of right.

18. In paragraph-22 of the said judgement the Hon"ble Division Bench had observed as follows :

"22. What is crucial for the purpose of deciding as to whether the temple is a public temple or private is the dedication to the public and the right recognised in public to offer worship at the temple as of right. That question is to be decided on a consideration of the oral and documentary evidence in the case and not on the basis of any non-statutory presumption."

19. The Division Bench had also clarified that the popular perception among the

Courts to the effect that temples in South India except those in the transferred Territory namely, Malabar region, are all presumed to be public temples and the burden of proving contrary is on the person who asserts is also not correct. The Hon"ble Division Bench had pointed out that the presumption on which the State wants to rely upon, is thus a presumption which had been wrongly assumed to exist by the misreading of the judgements delivered, way back in the year 1920. The Division Bench also pointed out that the enactment namely, the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 does not create any such presumption. Therefore, we have to proceed to determine the nature of the suit temple, on the basis of the evidence that is available. In the judgement of the Hon"ble Division Bench referred to the above, tests laid down for determining as to whether, the temple in question is a public or private temple by the Hon"ble Supreme Court in Radhakanta Deb v. The Commissioner of Hindu Religious Endowments, Orissa reported in AIR 1981 SC 798 were also extracted and they are as follows :

"The four tests are (1) whether the user of the temple by members of the public is as of right; (2) whether the control and management vests either in a large body of persons or within the members of the public and the founder does not retain any control over the management; (3) Whether the dedication of the properties is made by the founder who retain the control and management and whether control and management of the temple is also retained by him; and (4) where the evidence shows that the founder of the endowment did not make any stipulation for offerings or contributions to be made by the members of the public to the temple, this would be an important intrinsic circumstance to indicate the private nature of the endowment."

In Kuldip Chand and another v. Advocate General to Government of H.P. and others reported in (2003) 5 SCC 46, the same tests were adopted by the Hon"ble Supreme Court to determine whether the temple is public or private.

20. Apart from the above, Mr. T.R. Rajagopalan, learned Senior Counsel appearing for the appellant would draw my attention to the Judgement of the Hon"ble Supreme Court in Sree Panimoola Devi Temple and Ors. v. Bhuvanachandran Pillai and Ors. Reported in 2014 (13) Scale 485, wherein the Hon"ble Supreme Court after referring to the following observation of the Privi Council in Babu Bhagwan Din :

"In these circumstances it is not enough in their Lordships" opinion, to deprive the family of their private property to show that Hindus willing to worship have never been turned away or even that the deity has acquired considerable popularity among Hindus of the locality or among persons resorting to the annual mela. Worshipers are naturally welcome at a temple because of the offerings they bring and the repute they give to the idol : they do not have to be turned away on pain of forfeiture of the temple property as having become property belonging to a public trust. Facts and circumstances, in order to be accepted as sufficient proof of dedication of a temple as a public temple, must be considered

in their historical setting in such a case as the present; and dedication to the public is not to be readily inferred when it is known that the temple property was acquired by grant to an individual or family. Such an inference if made from the fact of user by the public is hazardous, since it would not in general be consonant with Hindu sentiments or practise that Worshipers should be turned away; and as worship generally implies offerings of some kind it is not to be expected that the managers of a private temple should in all circumstances desire to discourage popularity."

took note of the fact that Hindus generally do not turn away the people who come to worship and that by itself would not be sufficient to enable a determination that the temple in question is a public temple.

21. Further reliance was placed by Mr. T.R. Rajagopalan, learned Senior Counsel appearing for the appellant in *Kuppuswamy v. The Commissioner HR and CE Admn. Department* and another reported in 2011-1-L.W.351 and *Commissioner, HR and CE Admn. Department Nungambakkam High Road, Madras-34* and another *v. Sri Ayyappa Baktha Sabha* represented by its Secretary K.V. Thangappan Nair reported in (2011) 1 MLJ 971 to contend that on the evidence that is available on record, the suit temple cannot be held to be a public temple. He would also highlight the fact that the temple in question in the judgement reported in (2011) 1 MLJ 971 was also that of Ayyappa Temple run by Sri Ayyappa Baktha Sabha as a society. In the said decision, the learned Judge after referring to various pronouncements of this Court as well as the Hon"ble Supreme Court and after taking into account the definition of the terms "Religious Institution" as well as "temple" in Tamil Nadu Hindu Religious and Charitable Endowment Act had held that the architecture of the temple, performance of Pooja, distribution of prasatham and even presence of hundials cannot make the temple to public, if it is otherwise private.

22. Now let us examine the evidence on record, in the light of the guidelines and tests prescribed by various precedents referred to above. As already set out, the temple has been constructed in a piece of land allotted to the plaintiff society. Therefore, it is not located in any public property. It is an admitted fact that a display board to the effect that right of admission is vested with the plaintiff is also put up in the Temple.

23. Hundials are said to be kept in the premises of the office of the plaintiff and not in the premises of the temple. There is no evidence of dedication of the temple to the public. It could be seen that the temple itself was consecrated only in 1984 and the notice was issued by the Assistant Commissioner HR and CE immediately thereafter in the year 1985. Relying upon this as a very strong evidence of predetermination, Mr. T.R. Rajagopalan learned Senior Counsel appearing for the appellant would contend that none of the requirements have been satisfied so as to presume that the suit temple is a public temple. On the other hand, Mr. R. Venkataramani, the learned Additional Advocate General appearing for the respondent would contend that burden of proof that the temple

in question is not a public temple is on the plaintiff. He would rely upon a judgement of the learned single judge of this court in Hindu Religious and Charitable Endowment (A) Department, Nungambakkam, Madras-34 v. N. Sivarawajan Nadar reported in 2001 (2) CTC 513. I am afraid, the said contention of the learned Additional Advocate General cannot be countenanced.

24. A perusal of the judgement relied upon by the Additional Advocate General would show that the learned Judge, who decided the case has reached the said conclusion, based on the presumption to the effect that all the temples in South India are presumed to be public temples, unless the contrary is proved. However, subsequently the Division Bench reported in The Commissioner, Hindu Religious and Charitable Endowments Board, Nungambakkam, Chennai and another v. T.S. Palanichamy and seven others reported in 2003 (1) CTC 65 referred to supra, held that such presumption does not exist and the Act also does not provide for any such presumption. Therefore, the submission of the learned Additional Advocate General based on the decision reported in 2001 (2) CTC 513 cannot be sustained. The learned Additional Advocate General would further contend that the temple is situated in prime locality in the city and the fact that its architecture resembles the shrine of Lord Ayyappa at Sapari Malai, would be an indicator of the fact that it was intended to be a Public Temple. The learned Additional Advocate General would also lay considerable emphasis on the existence of Dwajasthambam in the suit temple, to buttress the submission that the temple is a public temple. I have already referred to the tests relied upon by the Hon'ble Supreme Court. In fact those tests do not lay any emphasis on the architecture or on the existence of a Dwajasthambam. It will be appropriate to reproduce the words of the Hon'ble Supreme Court in the judgement in Radhakanta Deb v. The Commissioner of Hindu Religious Endowments, Orissa reported in AIR 1981 SC 798 which reads as follows :

"the cardinal point to be decided is whether it was the intention of the founder that specified individuals are to have the right of worship at the shrine, or the general public or any specified portion thereof."

Saying so, the Hon'ble Supreme Court had held that the mere fact that members of the public are allowed to worship by itself would not make an endowment unless it is proved that the members of the public had a right to worship in the temple. Therefore, the fundamental requirements appear to be dedication and worship by the public as of right, the other aspects namely architecture, existence of Hundials, or distribution of prasadam etc. can only be taken as indicators and not as essentials, which will affect the character of the temple or determining the factors.

25. The Commissioner HR and CE in his order in A.P. No. 23 of 2001 D2 dated 28.4.2009 had stressed on the architecture of the temple, the existence of the hundials and the report of the Inspector HR and CE, who claims to have examined certain people in the locality and has obtained statement from them, to come to the conclusion that the temple in question is a public temple. It is

seen from the records particularly the orders passed in O.A. No. 8 of 1987, that except one Manonmani, Inspector, HR and CE Department, no other witness has been examined on the side of the Department. Apart from the report of the Inspector dated 19.02.1989 no document has been marked. The statements obtained from the individuals by the Inspector of HR and CE Admn. Department have not been made as part of the records either in the proceedings before the authorities or in the suit. The plaintiff has thus been deprived an opportunity to cross examine those persons, whose statements have been relied upon.

26. Mr. R. Venkataramani, learned Additional Advocate General would contend that inasmuch as the order of the Commissioner is under challenge, the entire file relating to the proceedings became part of the record in the suit and those documents were not produced by the defendant. Therefore, the statements of the persons recorded by the Inspector, HR and CE Department were not produced and marked as evidence either before the authorities or before the Trial Court. Section 110 of the Hindu Religious and Charitable Endowment Act lays down the procedure for inquiries and prescribes the powers of Officers, who are authorised under Chapters 5 and 6 of the said Act. The enquiry under Section 63(a) falls under chapter 5 of the said Act. Section 110 prescribes that the inquiry shall be made in accordance with the procedure contemplated under the Code of Civil Procedure 1908. In the appeal also the procedure prescribed under the Code of Civil procedure 1908 is made applicable. Indian Evidence Act is also made applicable to the said inquiries and the appeals. The Judicial Officers Protection Act 1850 is also made applicable to the Joint Commissioner HR and CE, Deputy Commissioner and the Commissioner.

27. From the above, it is clear that the officers, while conducting the inquiries are performing functions as of a Civil Court, unless the documents are duly marked as contemplated under the Evidence Act, they cannot be looked into or made the basis for the conclusions. In the case on hand as already stated, the statements of certain individuals recorded by the Inspector, HR and CE were not marked either before the Joint Commissioner or before the Trial Court and those persons have not been examined. This had resulted the plaintiff being denied opportunity to cross-examine those persons.

28. In my view, the above procedural flaw makes those statements inadmissible evidence as well as unreliable and therefore, I am unable to accept the contention of the learned Additional Advocate General to the effect that the statements recorded by the Inspector of HR and CE Department form part of the records in the original proceedings. The learned Additional Advocate General would rely upon the judgement in N.M. Palanimuthu v. The Commissioner HR and CE (Admn.) Dept. and five others reported in 1999 (1) CTC 534 wherein this Court held that the suit under Section 70 is only a continuation of the proceedings initiated under Section 63 of the Act. Basing his contention on the said judgement, the learned Additional Advocate General would plead that records of the original proceedings can be looked into even though they have not

been produced and marked in the suit. Mr. T.R. Rajagopalan, learned Senior Counsel appearing for the appellant/plaintiff would contend that the said judgement was rendered on the question relating to applicability of Section 5 of the Limitation Act to the suit filed under Section 70 of the HR and CE Act and therefore, the law laid down therein cannot be extended to include procedural aspects also. For the purposes of this case, I need not go into the correctness of rival contention on this issue. I had already pointed out the statement of individuals said to have been recorded by the Inspector of HR& CE, were not marked even before the Original Authority, namely, the Joint Commissioner, HR & CE. Therefore, I do not propose to examine in detail, the rival contentions relating to the scope of the suit under Section 70 of the HR and CE Act. Now coming to the evidence on the side of the respondent/defendant one Ravi son of Elumalai working in the HR and CE Department has been examined as DW1. In his affidavit of chief examination, he has only extracted portions of the orders challenged in the suit. In his cross-examination, he would claim that he does not know anything about the management of the suit temple. He would also admit that he has not seen the documents filed on the side of the plaintiff in the suit. He admits that the plaintiff society has got several objects and one of the object is to propagate Ayyappa cult. He would also admit that the temple has been built in the land belonging to the society. He would further admit that the management of the temple is being done by the office bearers of the society. He would further admit that the property has not been dedicated to the temple. Though he would say that there are hundials in the premises of the temple, he would admit that he has not filed any photographs or documents to establish the same. He has produced two receipts Exs.B1 and B2, for having paid contribution to the plaintiff society. These receipts do not contain signature nor bear the name of DW1. This oral evidence of DW1 does not in any manner support the case of the defendant. No member of the public has been examined on the side of the defendant either before the Authority or before the Court.

29. Upon considering the evidence on record, I am of the considered opinion that the vital ingredients namely, the dedication of the temple to the public and the fact that the public had the right to worship have not been established. Though certain factors like resemblance in architecture, distribution of prasadam etc. have been established, they are only indicating the factors and not determining the factors. The cardinal point namely, right of the public to worship has not been established. Even assuming that the statements made by the individuals that they had been worshipping the temple, as rightly pointed out by Mr. T.R. Rajagopalan learned Senior counsel, appearing for the appellant and as per the decisions of the Hon"ble Supreme Court, unless it is shown that such worship is of right, the temple in question cannot be considered to be a public temple.

30. In the light of the above discussion, I conclude that the suit temple cannot be termed as a public temple falling within Sub Section 20 of Section 6 of the Hindu Religious and Charitable Endowment Act 1959 and cannot be termed as a Religious Institution ss defined under Sub Section 18 of Section 6 of the said Act.

In view of my findings as above, the orders of the Commissioner HR & CE dated 28.04.2009 made in A.P. No. 23 of 2001 confirming the order of the Joint Commissioner dated 25.04.2001 made in O.A. No. 8 of 1987 are set aside and the suit in O.S. No. 12857 of 2009 is decreed as prayed for. However, considering the circumstances of the case, there shall be no order as to costs. 31. In fine the appeal is allowed and the Judgement and Decree dated 07.09.2015 made in O.S. No. 12857 of 2009 on the file of the XII Assistant City Civil Judge, Chennai, are set aside. The suit in O.S. No. 12857 of 2009 on the file of the XII Assistant City Civil Judge, Chennai stands decreed as prayed for. However, considering the circumstances of the case, there shall be no order as to costs. Consequently the connected pending miscellaneous petitions are closed.