



2025 INSC 1407

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 1926/2010

SIVANMALAI SUBRAMANIASWAMY DEVASTHANAM
REP. BY ITS EXECUTIVE OFFICER

APPELLANT(S)

VERSUS

S. MUTHUSAMY GOUNDER (DEAD)
BY LRS. & ORS.

RESPONDENT(S)

JUDGMENT

NAGARATHNA, J.

Being aggrieved by the judgment dated 03.08.2009 passed by the High Court in Second Appeal No.732/1996, the defendants in O.S. No.84/1990 have preferred this appeal.

2. Briefly stated the facts are that there were certain proceedings which were initiated under the provisions of the Tamil Nadu Inam (Abolition and Conversion into Ryotwari), Act, 1963 which resulted in orders in favour of the appellant herein. However, liberty was reserved to the respondents herein to file a suit seeking appropriate reliefs by the High Court, as an Appellate Tribunal, by its order dated 22.09.1989.

3. On the strength of the said liberty, the respondents herein preferred O.S. No.84/1990 before the sub-court

Dharapuram and sought the reliefs of declaration of title as well as permanent injunction. The said suit was dismissed by the Trial Court by its judgment and decree dated 11.01.1994.

4. Being aggrieved by the dismissal of the suit, the respondents/plaintiffs preferred a First Appeal before the learned District Judge at Erode and the said First Appeal was also dismissed. Hence, the Second Appeal No.732 of 1996 was preferred by the respondents/plaintiffs before the High Court by invoking the jurisdiction of the High Court under Section 100 of the Code of Civil Procedure, 1908 (for short "CPC"). The Second Appeal was admitted on the following substantial questions of law:

"9. At the time of admission of the second appeal the following substantial questions of law were framed.

- i) Whether the Court below has misinterpreted the provisions of section 8(1) and 8(2) of Minor Inams Abolition Act, 1963?
- ii) Whether the Court below ought to have sent that provisions of Section 8 (2) of the Abolition Act would apply only when there is a grant of both warams to the religious institutions?"

Further, after hearing the learned senior counsel for the appellant(s), another additional question of law was framed, which reads as under:

"Whether the claim of the appellants is barred by res-judicata under Section 43 of the Minor Inams Abolition and Conversion into Ryotwari Act, 1963?

5. On considering the aforesaid substantial question of law, the High Court set aside the judgment and decree of the Trial Court as well as of the First Appellate Court and allowed the Second Appeal. Consequently, the suit filed by the respondents/plaintiffs was decreed. Hence, this appeal.

6. We have heard learned senior counsel for the appellant and learned senior counsel for the respondents. We have perused the impugned judgment and the material on record.

7. During the course of submissions, Sri V. Prabhakar, learned senior counsel for the appellant pointed out that the High Court was not right in formulating the aforesaid substantial questions of law. It was contended that the jurisdiction of the High Court under Section 100 of the CPC is unique and to be exercised only on correct and appropriate substantial questions of law to be formulated at the time of admission of the Second Appeal. In other words, in the absence of there being any substantial questions of law which arise in the Second Appeal, the same ought to be simply dismissed at the time of admission itself. But here is a case where the High Court admitted the Second Appeal but the appropriate questions of law were not at all raised inasmuch as according to the learned senior counsel for the appellant, the aforesaid questions did not arise at all. This is because once there is a culmination of the proceedings under the provisions of the

Act, no further controversy on those proceedings could be raised by way of filing of a civil suit, therefore, the High Court in exercise of its appellate statutory jurisdiction while granting the *patta* in favour of the appellant herein reserved liberty to the respondents/ plaintiffs to seek reliefs otherwise than arising under the provisions of the Act. However, the High Court has raised substantial questions of law only under the provisions of the Act, which are wholly inappropriate. It was the submission of the learned senior counsel for the appellant that the Second Appeal ought to have been dismissed at the stage of admission. However, the aforesaid substantial questions of law which are erroneously raised has resulted in an erroneous judgment and decree in the Second Appeal. Hence, the impugned judgment and decree may be set aside and the suit filed by the respondents/plaintiffs may be dismissed as there is no substantial question of law that would arise in the case.

8. *Per contra*, learned senior counsel appearing for the respondents supported the impugned judgment and decree and contended that the High Court had rightly raised the aforesaid substantial questions of law which have been answered correctly and there is no merit in this appeal. It was contended that both the Trial Court as well as the First Appellate Court were not right in dismissing the suit filed by

the respondents/ plaintiffs and not granting the reliefs of declaration of title and permanent injunction although the respondents/plaintiffs have been in possession of the suit land for several decades. Therefore, the findings on fact arrived at by the Courts below were not just and proper and the dismissal of the suit was incorrect. Therefore, the High Court was justified in answering the substantial questions of law in favour of the respondents and thereby decreeing the suit. It was contended that there is no merit in this appeal.

9. We have considered the arguments advanced by the learned senior counsel for the respective parties and we have considered the same in a juxtaposition with the impugned judgment and decree. In paragraph 9 as already noted, the substantial questions of law have been raised. It is necessary to mention that the High Court in exercise of its statutory appellate jurisdiction had reserved liberty to the respondents/plaintiffs to seek appropriate reliefs by filing a suit only after granting a *patta* and holding in favour of the appellant herein. Therefore, the question of reconsideration of those issues in the suit did not arise at all. No doubt, liberty was reserved by the High Court to the respondents/Plaintiffs to seek appropriate reliefs but *de hors* the orders which were passed by the High Court while granting the *patta* to the appellant herein.

10. We find that the High Court was not right in raising the aforesaid substantial questions of law besides under the provisions of the Act. They were not on the basis of what would have emerged on a reading of the judgment of the Trial Court which was upheld by the First Appellate Court. In the circumstances, we find that the High Court was not right in raising the aforesaid substantial questions of law. If that is so, we find that the impugned judgment and decree ought to be set aside and the matter ought to be remanded to the High Court so as to enable the High Court to raise the appropriate substantial questions of law by restoring the Second Appeal No.732 of 1996 on the file of the High Court. On such restoration being made, the High Court shall now consider the case of the respondents/plaintiffs for admission and if it so finds, raise appropriate substantial questions of law and dispose of the Second Appeal in accordance with law.

11. With the aforesaid observations, the appeal is allowed and disposed of without any order as to costs.

12. Since the Second Appeal is of the year 1996, we direct the parties who are represented by their respective counsel to appear before the High Court on 17.12.2025 without expecting any separate notices from the said High Court.

13. It is needless to observe that the Registry of the High Court shall list the Second Appeal before the appropriate Roster Bench on the said date and the matter shall be disposed of as expeditiously as possible and preferably within a period of four months from 17.12.2025.

14. Since we have restored the Second Appeal No.732/1996 on the file of Madras High Court, consequently interim order, if any, in the said Second Appeal shall revive and continue pending disposal of the appeal.

Pending application(s), if any, shall stand disposed of.

.....J.
(B.V. NAGARATHNA)

.....J.
(R. MAHADEVAN)

NEW DELHI;
NOVEMBER 26, 2025.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(S). 1926/2010

**SIVANMALAI SUBRAMANISWAMY DEVASTHANAM
 REP BY ITS EXECUTIVE OFFICER**

Appellant(s)

VERSUS

**S. MUTHUSAMY GOUNDER (DEAD)
 BY LRS. & ORS.**

Respondent(s)

Date : 26-11-2025 This appeal was called on for hearing today.

CORAM :

**HON'BLE MRS. JUSTICE B.V. NAGARATHNA
 HON'BLE MR. JUSTICE R. MAHADEVAN**

For Appellant(s) Mr. V. Prabhakar, Sr. Adv.
 Ms. Jyoti Parashar, Adv.
 Mr. N.j. Ramchandar, Adv.
 Mr. R. Chandrachud, AOR

For Respondent(s) Mr. V. N. Raghupathy, AOR
 Mr. S. Nandakumar, Sr. Adv.
 Mr. Om Prakash, Sr. Adv.
 Mr. C. Prakasam, Adv.
 Ms. Deepika Nandakumar, Adv.
 Ms. A. Rithikha, Adv.
 Ms. Kanimozhi J, Adv.

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

1. The appeal is allowed and disposed of in terms of the signed non-reportable judgment.
2. Pending application(s), if any, shall stand disposed of.

**(RADHA SHARMA)
 ASTT. REGISTRAR-cum-PS
 (Signed non-reportable judgment is placed on the file)**

**(DIVYA BABBAR)
 COURT MASTER (NSH)**