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C.A.No. 5979-5980 OF 1997  
ITEM NO. 104

COURT NO.9

SECTION XII

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

CIVIL APPEAL NOS. 5979-5980 OF 1997

K. PARAMA THEVAR .. APPELLANT  
VERSUS

REVISIONAL AUTHORITY & ORS. .. RESPONDENTS  
(With office report)

DATE: 02/09/2003 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL  
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For appellant (s)Mr. V. Sudeer, Adv.  
Mr. M.B. Rama Subba Raju, Adv.  
Mr. Balai Srinivasan, Adv.  
Ms. S. Sunita, Adv.  
Mr. S. Srinivasan, Adv.

For respondent (s)  
Nos.4-11Mr. Rajiv Talwar, Adv.

Mr. M.A. Chinnasamy, Adv.

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

Learned counsel for the appellant made his submissions for 25 minutes. Learned counsel for the respondents made his submissions in reply for few minutes. The appeals are allowed in terms of the signed order.

Sarita(Shelly Sengupta)  
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 5979-5980 OF 1997

K. PARAMA THEVAR

APPELLANT

VERSUS

O R D E R

Heard learned counsel for the parties.

The plaintiff is in appeal before this Court. The suit land measuring 1.82 acres belonged to one Shankaranarayana Iyer. The appellant purchased the same on payment of consideration of Rs .16,000/- in 1974 under registered Sale Deed. The original defendant, i.e., Muthu alias Ocha Theva was in possession of the said land as a tenant. He is no more. His legal representatives on record are respondent Nos. 5 to 11 in this appeal. The appellant gave a notice through his Advocate that he has purchased the land and the defendant

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Muthu failed to give share of the crop of paddy and that he filed a suit in O.S.No.280/75 in the Munsif Court, Madurai for seeking injunction on false allegations. The defendant was called upon to vacate and hand over the possession of the suit land. The original defendant gave reply through his Advocate in which he claimed that he had entered into an agreement of sale to purchase the same land from the previous owner and he specifically denied that the appellant was the owner of the suit land. Under these circumstances, the appellant instituted a suit for possession of the suit land in the Civil Court. The Trial Court, on the basis of the evidence that was placed on record, decreed the suit. The defendant filed First Appeal challenging the decree passed by the Trial Court. The First Appellate Court allowed the appeal and set aside the judgment and decree passed by the Trial Court on the ground that there was no willful default of payment of crop share. The appellant filed the Second Appeal before the High Court aggrieved by the decree passed by the First Appellate Court. The High Court dismissed the Second Appeal by the impugned judgment. The High Court recorded a

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finding that the Civil Court had jurisdiction. It also recorded a finding that the defendant denied the title of the plaintiff, but, however, dismissed the appeal on the ground that no proper notice of termination of lease was given.

We may add that the High Court did not frame any substantial question of law while dismissing the Second Appeal. Be that as it may, in the light of the findings recorded by the High Court on the question of jurisdiction as

well as on the denial of title of the plaintiff by the defendant, it was not right in dismissing the suit of the plaintiff by affirming the judgment and decree of the First Appellate Court only on the ground that the proper notice of termination was not given. In the light of the findings recorded by the High Court, it is clear that the present case is covered by Section

111(g) of the Transfer of Property Act.

In their arguments, learned counsel for the parties reiterated the submissions that were made before the High Court. During the course of hearing, we are also informed that pursuant to the decree passed by the Trial Court, possession of the suit land was delivered to the plaintiff in

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the execution in the year 1979 and the plaintiff continues to be in possession of the suit land. This Court, by order dated 1.9.1997, permitted the appellant to continue in possession of the suit land.

In the light of what is stated above, we find it difficult to sustain the judgment of the High Court passed in the Second Appeal. Under these circumstances, having regard

to the conclusion arrived at by the High Court on the question of jurisdiction and denial of title by the defendant, the appeals are entitled to succeed. Accordingly, they are allowed. The impugned judgment and decree passed by the High Court, affirming the judgment and decree passed by the First Appellate Court are set aside and the judgment and decree of the Trial Court

are restored. Consequently, the writ petition is also allowed.

No costs.

.....J.

(SHIVARAJ V. PATIL)

.....J.

New Delhi,  
September 2, 2003.

(D.M. DHARMADHIKARI)