

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 NO. 4021/2007

AMBIKAPATI AMMAL & ANR.

APPELLANT(S)

VERSUS

KANDASWAMY KOIL  
(WITH OFFICE REPORT)  
WITH  
C.A. NO. 4590/2007  
(WITH OFFICE REPORT)

RESPONDENT(S)

C.A. NO. 738/2008  
(WITH OFFICE REPORT)

Date : 12/02/2015 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI  
HON'BLE MR. JUSTICE PINAKI CHANDRA GHOSE

For Parties (s)

CA 738/08

Mr. Jaideep Gupta, Sr. Adv.  
Mr. K.S. Mahadevan, Adv.  
Mr. Krishna Kumar, Adv.  
Mr. Rajesh Kumar, Adv.

CA 4021/07

Mr. S. Gowthaman, Adv.  
for M/s Mahalakshmi Balaji & Co.

CA 4590/07

Mr. K. Paarivendhan, Adv.  
Mr. P. V. Yogeswaran, Adv.  
  
for M/s Keswani & Co.

Mr. K. Ramamoorthy, Sr. Adv.  
Mr. A. T. M. Sampath, Adv.  
Ms. T.S. Shanthi, Adv.  
Mr. V. Adhimoolam, Adv.

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

Delay condoned in filing application for substitution of legal heirs of deceased appellant No.1 Kamala Ammal in Civil Appeal No.738 of 2008 and abatement is set aside.

Application for substitution of legal heirs of deceased appellant No.1 Kamala Ammal in Civil Appeal No.738 of 2008 is allowed subject to all just exceptions.

Office to take necessary action for amending the cause title.

The claim of the plaintiff to title in the suit property was, *inter alia*, based on Patta No.1. The learned trial Court as well as the First Appellate Court took the view that as the said Patta has not been exhibited, the plaintiff had failed to prove his title. In the course of arguments, it transpires that the Settlement Register marked as Exhibit A-21 was introduced by the plaintiff. According to Shri K. Ramamoorthy, learned Senior Counsel appearing for the respondent plaintiff, the said Register would go to show that Patta No. 1 in respect of the suit property was, in fact, granted to the

plaintiff. If the document at Exhibit A-21 establishes the said fact, in that event, the onus of proof may shift to the defendant appellants and in that context the view taken by the High Court in Second Appeal that the defendants had failed to prove that the land was covered by the Abolition Act of 1948 would be relevant. It is, therefore, felt necessary to look into the contents of Exhibit A-21. The said Exhibit is not available as the Original Record, though called for, appears to have been sent back to the Registry of the Madras High Court.

In the above situation, we permit the respondent plaintiff to place before us Exhibit A-21 on the next date so as to enable us to proceed further in the matter.

List the matters on 18<sup>th</sup> February, 2015.

[VINOD LAKHINA]  
COURT MASTER

[ASHA SONI]  
COURT MASTER