

## APPELLATE JURISDICTION (a)

*Special Appeal No. 255 of 1862.*CHIDAMBARA NAYINÁN.....*Appellant.*ANNAPPA NÁYKKAN.....*Respondent.*

A bought land from B in 1848, entered into possession, and in 1852 went abroad. In 1853 C bought the same land from B, the land being then registered in B's name, and C. not having notice of A's purchase Held in a suit brought in 1859 that A could not eject C.

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of 1862.

THIS was a special appeal from the decision of George Ellis, the Civil Judge of Cuddalore, in Appeal Suit No. 8 of 1861. The original suit was brought in 1859 before Govindáchari, the District Munsif of Vilappuram, to recover  $2\frac{17}{64}$ th kanis of nanjey and punjey lands, assessed at rupees 11-10-11, as also  $\frac{1}{3}$ th share of a tank-fishery, and for the transfer of pattá thereof to the plaintiff, who claimed to have purchased the premises in 1848 from Chinnamuttu Náykkán, the husband of Páppammál, the first defendant. The District Munsif dismissed the plaint, on the ground, apparently, that the deed of sale was forged. The Civil Judge on appeal reversed his decree.

*Srinivasachariyar*, for the appellant, the second defendant, contended that his client was a purchaser for valuable consideration without notice.

The Court delivered the following

JUDGMENT :—The plaintiff sues upon a purchase of land made by him in 1848 from the first defendant's husband, representing that after being put in possession he went abroad in the year 1852, and on returning, after the lapse of some years, found the second defendant in possession.

The second defendant's plea is that in 1853 he bought the land from the first defendant's husband who was then in possession.

We are of opinion that the second defendant cannot be disturbed by the plaintiff. Whatever the plaintiff's title may have been, he has forfeited it by his own laches. The

(a) Present Strange and Phillips, J J.

second defendant found the first defendant's husband in possession with registry in his name, and there was nothing to lead him to question the title, or to indicate to him that the plaintiff or any other person had any right in the land.

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We therefore consider the decree of the Civil Judge giving the land to the plaintiff to be unsustainable in law, and we set the same aside, thus affirming the decision of the District Munsif.

The costs in appeal and special appeal are to be paid by the plaintiff.

*Appeal allowed.*

APPELLATE JURISDICTION (a)

*Special Appeal No. 267 of 1862.*

CHUDAMBARA PILLAI ..... *Appellant.*

MANIKKA CHETTI ..... *Respondent.*

A sold land to B and continued in possession as B's tenant. More than two years after the sale A and B agreed that A should have the right to repurchase within a fixed time, but that such right should be forfeited if the condition of the lease were not kept. At the date of this agreement A was in arrear with the rent: *Held* that his right to repurchase was not forfeited by his having incurred further arrears.

**T**HIS was a special appeal from the decree of V. Sundara Náyndu, the Principal Sadr Amin of Negapatam, in Appeal Suit No. 191 of 1861. The original suit, No. 428 of 1860, was brought before John Henry Shunker, the District Munsif of Tranquebar, for the registration in the plaintiff's name of the mirási of certain lands which he had sold for rupees 600 to the first defendant on the 26th of May 1852. The plaintiff continued in possession as the purchaser's lessee at a svámibhogam rent; and on the 24th August 1854, the parties executed a deed of lease of the lands to the vendor, and also entered into an agreement by which the purchaser agreed to reconvey if the purchase money were repaid within a period therein limited, but which contained the following clause:—"If you [the vendor] fail to pay the amount of the sale within the limited time, you shall have no right to

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