IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 15.10.2025	Pronounced on : 19.11.2025

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

OSA (CAD) No.20 of 2022

M/s.Sreedevi Video Corporation
Rep. By its Partner Mr.Ghanshyam Hemdev
Old No.14, New No.2, Vidhyodaya 2nd Cross Street,
T.Nagar, Chennai – 600 014. ... Appellant(s)

Vs.

1.M/s.SaReGaMa India Ltd.
Door No.2,3,4 & 5,
3rd Floor, Kasi Arcade,
No.116, Thyagaraja Road,
T.Nagar, Chennai – 600 017.

2.M/s.Poornodaya Movie Creations,
No.35, Kamdar Nagar, Nungambakkam,
Chennai – 600 034.

3.M/s.Poornodaya Art Creations,
No.35, Kamdar Nagar, Nungambakkam,
Chennai – 600 034. ... Respondent(s)

Prayer: Appeal filed under Section 13 of the Commercial Courts Act, 2015 r/w Section 13(1) of the Commercial Courts Act to set aside the judgement

and decree dated 07.02.2022 in the C.S.(Comm.) No.331 of 2014 and to allow the above appeal.

For Appellant(s) : Mr.K.Harishankar,

For R1 : Mr.P.R.Raman, Senior Counsel
for Mr.Abishek Jenasenan.

For R2 & R3 : No appearance

J U D G M E N T

MUMMINENI SUDHEER KUMAR, J

This Original Side Appeal is at the instance of Appellant/Plaintiff against the judgment and decree dated 07.02.2022 in the Civil Suit (Comm.) No.331 of 2014 passed by the learned Single Judge of this Court dismissing the said suit on the ground that the suit is barred by limitation.

2. The brief and relevant facts that are necessary for disposal of this appeal are stated hereunder:

2.1. The parties are referred to as they are arrayed in the suit for the sake of convenience.

2.2. The plaintiff claimed that it had entered into the two assignment agreements with the defendants 2 & 3 on 17.07.2008 which are marked as Exhibits P1 & P2 acquiring the exclusive and irrevocable copyright in the works relating to the entire sound tracks in the films namely 1) Seetha

KokaChilaka (Telugu), 2) Sitara (Telugu), 3) Sagara Sangamam (Telugu), 4) Sagara Sangamam (Malayalam), 5) Salangai Oli (Tamil), 6) Shankara Bharanam (Telugu) & 7) Thayaramma Bangarayya (Telugu) (hereinafter referred to as 'Schedule Films') and claiming to be the sole and absolute owner of the audio copyrights in the Schedule Films and also claiming to have been exploiting the rights in the said audio works since the date of acquiring the same under Exhibits P1 & P2, i.e.17.07.2008.

2.3. While so, the plaintiff received a letter dated 06.08.2010 from the 1st defendant which is marked as Exhibit P3 informing the plaintiff that the 1st defendant is the sole and absolute owner of the copyright and other related rights in and to the sound recordings and the underlying musical and literary works in the songs pertaining to the Schedule Films and calling upon the plaintiff to cease and desist from exploiting the sound recordings. However, the plaintiff did not choose to respond to the said letter of the 1st defendant and offered an explanation in the plaint stating that the plaintiff, on receipt of the said letter dated 06.08.2010, has contacted the defendants 2 & 3 and the defendants 2 & 3 informed the plaintiff that they have assigned the audio rights in respect of the Schedule Films in favour of M/s.Sea Records for a period of 25 years and that the said period had expired. It is further

claimed that the plaintiff was also informed by the defendants 2 & 3 that they have already addressed a letter to the 1st defendant on 13.04.2005 which is marked as Exhibit P6 informing the 1st defendant that the period of assignment given in favour of M/s.Sea Records had come to an end and the 1st defendant was called upon to pay royalty to the defendants 2 & 3 for exploiting the audio rights in the Schedule Films. On receipt of the said letter Exhibit P6, the 1st defendant, through its letter dated 17.08.2005 marked as Exhibit D8 appears to addressed the defendants 2 & 3 denying the claim made by the defendants 2 and 3 in their letter Exhibit P6. There was further reference in the Exhibit D8 letter to the legal notice dated 18.10.2000 and the reply thereto dated 04.11.2000. But the further elaborate reference to the said letters may not be necessary for disposal of this appeal.

2.4. The plaintiff, having kept quiet on receipt of the Exhibit P3, letter dated 06.08.2010 for about 4 years, filed the present suit on 13.05.2014. The 1st defendant contested the suit by denying the claim and rights of the plaintiff over the Schedule Films and also asserting that the 1st defendant is the absolute owner of the said rights over the Schedule Films. However, no counter-claim is made against the plaintiff, though plaintiff has specifically averred in the plaint that it has been exploiting the claimed rights in the

Schedule Films since the date of their assignment in the year 2008. The defendants 2 & 3 filed the written statement supporting the case of the plaintiff. Basing upon the rival contentions, the learned Single Judge framed the the following issues:

a) Whether the suit is barred by limitation?

b) Whether the second and third defendants had assigned copyrights in the suit pictures in favour of the first defendant's predecessor M/s. Sea Records, for a period of 60 years as alleged by the first defendant?

c) Whether the first defendant is entitled to exploit the rights after a period of 25 years of assignment in favour of its predecessor M/s. Sea Records?

d) Whether the plaintiff is entitled to a declaration of Copyrights in its favour ?

e) Whether the agreement entered into between M/s. Sea Records and defendants 2 and 3 were limited to a period of 25 years?

f)Whether the plaintiff could have filed this suit after a lapse of 14 years from the date on which the first legal notice was issued ?

g) Whether the second and third defendants could have assigned the rights to the plaintiff?

2.5. On behalf of the plaintiff, P.W1 was examined and Exhibits P1

to P6 were marked. Whereas, on behalf of the 1st defendant, D.W1 was examined and Exhibits D1 to D8 were marked.

2.6. In the light of the objections raised by the 1st defendant on the ground of limitation on the maintainability of the suit and in the light of framing of a specific issue on this aspect, the learned Single Judge took up the same for consideration as a preliminary objection and came to the conclusion that the suit is barred by limitation under Article 58 of the Limitation Act, 1963 on the ground that the title of the plaintiff was denied and challenged by the 1st defendant as early as on 06.08.2010 under Exhibit P3 and whereas, the suit in question was filed on 13.05.2014 i.e., beyond the period of 3 years. Thus, the learned Single Judge, having answered the first issue namely 'whether the suit is barred by limitation?' opined that there is no requirement to go into the other contentions raised by the learned counsel appearing on either side and to go into the merits of the case to decide the other issues and accordingly dismissed the suit.

3. Heard Mr.Harishankar, learned counsel for the plaintiff/appellant and Mr.P.R.Raman, learned Senior Counsel representing Mr.Abishek Jenasenan learned counsel for the 1st defendant/1st respondent.

4. Mr.Harishankar, learned counsel, though initially made an attempt to contest the conclusion arrived at by the learned Single Judge on the ground of limitation as such, but did not choose to pursue the said ground insofar as the relief of declaration sought in the suit is concerned, perhaps by realising that it is difficult to sustain. However, he contended that the learned Single Judge is not right in dismissing the suit in its entirety by only deciding the issue of limitation only in respect of the relief of declaration is concerned. According to him, notwithstanding the fact that the relief of declaration sought in the suit is barred by limitation, the suit is maintainable insofar as the relief of injunction, which is sought as an independent relief in the suit. He also further contended that the relief of injunction sought in the suit is not as a consequential relief but as an independent relief the same was sought for and separate Court fee is paid under Section 27(c) of Tamil Nadu Court Fees and Suits Valuation Act. Thus, he contended that the learned Single Judge gravely erred in coming to the conclusion that the entire suit is barred by limitation.

5. He further contended that the observations of the learned Single

Judge at Paragraph No.26 of the judgement, stating that the relief of permanent injunction cannot stand independently and the same is dependent on the relief of declaration and the same is in the nature of consequential relief, is totally erroneous and not sustainable in the facts and circumstances of the case. He also further contended that the rights that are claimed by the 1st defendant and asserted under Exhibit P3 and the demand that was made by the 1st defendant under Exhibit P3, have not been denied by the plaintiff and the plaintiff has been exercising its claimed rights in the Schedule Films continuously and exploiting the same. Therefore, it is for the 1st defendant to take steps, if at all the 1st defendant has got any right over the Schedule Films. But the 1st defendant has not taken any such steps as on date.

6. He also further contended that the defendants 2 & 3 got issued a notice under Exhibit P6 dated 13.04.2005 disputing the rights claimed by the 1st defendant over the Schedule Films, but the 1st defendant failed to initiate any proceedings against the defendants 2 & 3 till date. He also further contended that under Section 55 of the Copyright Act, 1957, the plaintiff is entitled to seek an independent relief of injunction for the infringement of copyright without seeking the relief of declaration. Thus, he contended that

the learned Single Judge gravely erred in dismissing the suit in its entirety and prayed for setting aside of the order under appeal.

7. Mr.Harishankar, learned counsel, in support of his contentions, placed reliance on the decisions in ***C.Mohammed Yunus Vs. Syed Unnissa and others*** reported in ***AIR 1961 SC 808*** and ***Shri Sayad Ahmed Kabuli*** reported in ***1972 SCC OnLine Bom 141.***

8. On the other hand, Mr.P.R.Raman, learned Senior Counsel appearing for the 1st defendant contended that the suit was rightly dismissed by the learned Single Judge as barred by limitation, as the same was filed beyond the period of limitation of 3 years prescribed under Article 58 of the Limitation Act, 1963 and the relief of declaration sought is intrinsically connected to the relief of permanent injunction, and therefore once the relief of declaration is lost either on merits otherwise, the relief of permanent injunction does not stand. He also further contended that no document has been produced by the plaintiff to show as to how the cause of action arose to the plaintiff in the year 2014. He also placed reliance on decisions of the Hon'ble Apex Court in the case of ***PADHIYAR PRAHLADJI CHENAJI***

(Deceased) through legal representatives Vs. MANIBEN JAGMALBHAI (Deceased) through legal representatives and Others reported in ***(2022) 12 SCC 128.*** He further contended that the 1st defendant being the exclusive owner of all the rights in the Schedule Films is alone is entitled to exploit the same and the plaintiff has no right over the Schedule Films of whatsoever nature.

9. Though learned Senior Counsel narrated in detail about the manner in which the 1st defendant acquired the rights that are being claimed by the 1st defendant rooting the same to the defendants 2 & 3, it is not necessary to refer to the same for consideration and disposal of this appeal, as the suit was dismissed only on the ground of limitation and we are not going deep into the matter on merits.

10. We have carefully considered the submissions made on either side and also perused the entire material on record.

11. The learned Single Judge considered the issue of limitation in Paragraph Nos.25 to 31 of judgement under appeal. A perusal of the same would disclose that the learned Single Judge has taken the date of receipt of Exhibit P3 letter dated 06.08.2010, as the starting point of limitation on the ground that the cause of action for the first time arose for the plaintiff to file the suit. He also further came to the conclusion that the relief of declaration sought by the plaintiff is governed by Article 58 of the Limitation Act, 1963 which prescribes 3 years limitation from the date of accrual of first cause of action. Thus, he arrived at a conclusion that the cause of action for the relief of declaration for the first time arose on 06.08.2010 and the suit was filed only on 13.05.2014 and therefore, the same is barred by limitation.

12. Having arrived at such a conclusion on limitation insofar as relief of declaration is concerned, the learned Single Judge at Paragraph No.26 of the judgement observed that the relief of permanent injunction cannot stand independently even though it is claimed as a separate relief and the relief of permanent injunction is dependent on the relief of declaration. Thus, he arrived at a further conclusion that the relief of permanent injunction sought is only in the nature of a consequential relief. For better

appreciation, the said Paragraph No.26 is extracted hereunder:

> *"26.In the present case, the relief of permanent injunction, cannot stand independently even though it is claimed separately as a relief. The relief of permanent injunction is dependent on the relief of declaration. In other words, it is in the nature of a consequential relief. If for instance the present suit was filed only for the relief of permanent injunction without there being any dispute over the right and title on the audio copyrights,there will be no difficulty in tracing the limitation under Article 113 of the Limitation Act and this Article specifically provides that it will be three years from the time when the right to sue accrues. Consciously the term "first" is not used in this Article. This means that every time when there is exploitation of copyright, the right will accrue and the suit can be filed within three years. Unfortunately, the present case does not fall under Article 113 of the Limitation Act since the relief of permanent UR injunction is dependent upon the relief of declaration."*

13. From the above, it is noticed that the learned Single Judge came to the conclusion that the relief of permanent injunction is dependent upon the relief of declaration and therefore, the same does not fall under Article 113 of the Limitation Act and it is only in case the suit for permanent injunction is filed without there being any dispute over the right and title on the audio copyrights claimed, the same would have fallen under Article 113 of the Limitation Act, 1963 and the same could have been filed as and when there was cause of action or on the recurring cause of actions unlike under

Article 58 of the Limitation Act. Except the reasoning assigned at Paragraph No.26 which is extracted herein above, there is no other discussion or reasoning on this aspect in the entire judgement.

14. From the perusal of the above Paragraph No.26, it is not discernible as to how and on what basis and for what reasons the learned Single Judge came to the conclusion that the relief of permanent injunction sought by the plaintiff is dependent on the relief of declaration. Admittedly, the plaintiff sought for an independent relief of permanent injunction duly paying a separate Court fees and has not sought for the same as a consequential relief of declaration. Therefore, it is incumbent on us to examine whether the unreasoned conclusion arrived at by the learned Single Judge is justified or not in the facts and circumstances of the case.

15. Both the plaintiff and the 1st defendant are claiming their right and title over the respective claimed rights in the Schedule Films by different ways but sourcing the same to the defendants 2 and 3 only. In other words, the rights that are alleged to have been derived by the plaintiff and the 1st defendant are only from the defendants 2 and 3. Admittedly, the defendants

2 and 3 denied the right and title asserted by the 1st defendant by issuing a notice dated 13.04.2005 under Exhibit P6. So also, the right and title claimed by the plaintiff over the Schedule Films is denied by the 1st defendant by its letter dated 06.08.2010. Thus, there is denial of right and title of both the plaintiff and defendant. The correctness or otherwise of the right and title claimed by the plaintiff is not examined on merits by the learned Single Judge. But the relief of declaration sought is held to be time barred thereby denying the remedy to the plaintiff.

16. By now it is well settled that the law of limitation only takes away the remedy, but the same does not have the effect of extinguishing the right if any otherwise possessed by any party. Even in case if the remedy is barred, it is always open for the party claiming a particular right, though barred by limitation, to assert such right and defend itself from any action *vis-a-vis* any third party. In case, if any such proceedings are initiated against the plaintiff, it is always open for the plaintiff to defend itself by asserting its rights over the Schedule Films and in such an event, the question of limitation does not arise. This is on the principle that an expiry on the period of limitation, it is only the remedy is barred, but there will not be any

extinguishment of right.

17. In this connection it would be relevant to refer to the decision of Bombay High Court in the case of ***Shri Sayad Ahmed Kabuli*** vs. ***The State of Maharashtra*** reported in **1972 SCC Online Bom 141,** wherein it was held as under:

> "*13. But the question as to whether suit for injunction simpliciter in the event of declaratory relief becoming time-barred could be maintainable or not was not considered in three of these four cases. Tarkunde, J. in his order dated June 11, 1969 did consider the question and held in the affirmative. But neither his order nor the order of Nain, J. dated January 14, 1972 contemplated referring this question to the Full Bench. We have already Indicated how Tarkunde, J. appears to have referred the question of limitation to the Full Bench even when in the opinion of the Bench the suit for injunction could still be entertained. We do not see why the reliefs of injunction cannot be granted in the present case, even if the suit for declaratory reliefs is held to have become time-barred. It is well-settled that Limitation Act only bars remedy and does not destroy the substantive rights, excepting as provided under s. 28 (of 1908 Act) with regard to the rights in immovable properties. Status of a person as citizen of India cannot be said to have been extinguished merely because his remedy for getting declaration to that effect is lost due to the bar of limitation. A suit for possession by a rightful owner filed within 12 years of dispossession cannot be held as time-barred merely because his remedy for declaration of his title had become barred due to the expiry of six years. Such rightful owner can still establish his title and succeed in getting the possession, if the suit for possession is within*

time. We are not here dealing with cases where relief of injunction is claimed by way of consequential relief and grant of which relief is dependent on the relief for declaration. Suits for declaratory reliefs on voidable transactions are illustrative of such cases. We have already made reference to the decisions of the Supreme Court to indicate the nature of right of a citizen in such matter. In our opinion, the relief for declaration in such kinds of suits is not only ancillary as held by the Calcutta High Court in Gowardilandas v. Calcutta Municipality in a different context but is superfluous Indeed. Every citizen is entitled to protection against deportation and the investigation of his being a citizen under art. 5 of the Constitution is implicit in the claim for relief for injunction without regard to whether declaratory suit for the same has become barred by limitation. Such Investigation of title or status does not depend on claiming declaratory relief. See V.P. Sugar Works v. C.I. of Stamps, U.P.12 Implications of the above three judgments of the Supreme Court also go to fortify this conclusion of ours."

18. So also, in the case of ***Bombay Dyeing & Manufacturing Co., Ltd.,*** vs ***State of Bombay and others*** reported in **1957 SCC online SC 7 (AIR 1958 SC 328)** wherein, the Hon'ble Apex Court held as under:

"12. It will be observed that the definition of "unpaid accumulations" takes in only payments due to the employees remaining unpaid within a period of three years after they become due. The intention of the legislature obviously was that claims of the employees which are within time should be left to be enforced by them in the ordinary course of law, and that it is only when they become time-barred and useless to them that the State should step in and take them over. On this, the question

arises for consideration whether a debt which is time-barred can be the subject of transfer, and if it can be, how it can benefit the Board to take it over if it cannot be realised by process of law. Now, it is the settled law of this country that the statute of Limitation only bars the remedy but does not extinguish the debt. Section 28 of the Limitation Act provides that when the period limited to a person for instituting a suit for possession of any property has expired, his right to such property is extinguished. And the authorities have held - and rightly, that when the property is incapable of possession, as for example, a debt, the section has no application, and lapse of time does not extinguish the right of a person thereto. Under Section 25(3) of the Contract Act, a barred debt is good consideration for a fresh promise to pay the amount. When a debtor makes a payment without any direction as to how it is to be appropriated, the creditor has the right to appropriate it towards a barred debt. (Vide Section 60 of the Contract Act). It has also been held that a creditor is entitled to recover the debt from the surety, even though a suit on it is barred against the principal debtor. Vide Mahant Singh v. U Ba Y, Subramania Aiyar v. Gopala Alyar and Dil Muhammad v. Sain Das. And when a creditor has a lien over goods by way of security for a loan, he can enforce the lien for obtaining satisfaction of the debt, even though an action thereon would be time-barred. Vide Narendra Lal Khan v. Tarubala Dasi. That is also the law in England. Vide Halsbury's Laws of England (Hailsham's Edn.). Vol. 20, p. 602, para 756 and the observations of Lindley L.J. in Carter v. White and of Cotton L.J. in Curwen v. Milburn, In American Jurisprudence, Vol. 34, p. 314, the law is thus stated:

"A majority of the courts adhere to the view that a statute of limitations, as distinguished from a statute which prescribes conditions precedent to a right of action, does not go to the substance of a right, but only to the remedy. It does not extinguish the debt or preclude its enforcement,

unless the debtor chooses to avail himself of the defence and specially pleads it. An indebtedness does not lose its character as such merely because it is barred; it still affords sufficient consideration to support a promise to pay, and gives a creditor an insurable interest."

In Corpus Juris Secundum, Vol. 53, p. 922, we have the following statement of the law:

"The general rule, at least with respect to debts or money demands, is that a statute of limitation bars, or runs "against the remedy and does not discharge the debt or extinguish or impair the right, obligation, or cause of action."

19. From the above, it is clear that the bar of limitation would only bars the remedy and does not extinguish or impair the right, obligation or cause of action. In the light of the settled legal position noted above, the mere fact that the suit filed for relief of declaration is found to be barred by limitation, the same will not have the effect of extinguishing the rights that are being claimed by the plaintiff in the Schedule Films automatically. The rights, if any, possessed by the plaintiff would remain intact not withstanding the fact that the relief of declaration sought was found to be barred by limitation.

20. Mere fact that the relief of declaration is declined on the ground

of limitation, the same will not have the effect of conferring title on the 1st defendant. It is only in case the relief of declaration sought by the plaintiff is declined by the Court on examining the rival case set up by the plaintiff and defendant on merits, and in the event of arriving at a conclusion that the plaintiff has failed to establish its right and title while the 1st defendant is able establish his right and title, the relief of permanent injunction sought by the plaintiff cannot be granted. In other words, even in case if the plaintiff was found to be not having right and title and the 1st defendant also found to be not having any right and title also, it would be imperative on the part of the learned Single Judge to independently examine as to whether the plaintiff is entitled to the relief of permanent injunction, as the same was sought as an independent relief. However, in a situation where the defendant was found to be having right and title, the question of considering the relief of permanent injunction does not arise as no injunction can be granted against the true owner.

21. As rightly pointed out by the learned counsel for the appellant/plaintiff, Section 55 of the Copyright Act provides for a remedy by way of injunction, damages, accounts, etc against any party infringing the

Copyright. Section 55 of the Copyright Act,1957 reads as under:

> *"**55.Civil remedies for infringement of copyright**.-(1) Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction, damages, accounts and otherwise as are or may be conferred by law for the infringement of a right:*
>
> *Provided that if the defendant proves that at the date of the infringement he was not aware and had no reasonable ground for believing that copyright subsisted in the work, the plaintiff shall not be entitled to any remedy other than an injunction in respect of the infringement and a decree for the whole or part of the profits made by the defendant by the sale of the infringing copies as the Court may in the circumstances deem reasonable.*
>
> *(2) Where, in the case of a literary, dramatic, musical or artistic work, for, subject to the provisions of sub-section (3) of section 13, a cinematograph film or sound recording, a name purporting to be that of the author, or the publisher, as the case may be, of that work, appears] on copies of the work as published, or, in the case of an artistic work, appeared on the work when it was made, the person whose name so appears or appeared shall, in any proceeding in respect of infringement of copyright in such work, be presumed, unless the contrary is proved, to be the author or the publisher of the work, as the case may be.*
>
> *(3) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the discretion of the Court."*

22. In the light of the above, the relief of permanent injunction sought for by the plaintiff as an independent relief by duly paying a separate

Court fee can be construed as a relief sought under Section 55 of the Copyright Act, 1957, but not as a consequential relief of declaration. Therefore, the learned Single Judge ought to have independently examined whether the relief of permanent injunction sought for is also barred by limitation or not.

23. From the perusal of Paragraph No.26 of the judgement under appeal, it is evident that the learned Single Judge himself accepted that in case, if the present suit was filed only for relief of permanent injunction without there being any dispute over the right and title, there will be no difficulty in tracing the limitation under Article 113 of the Limitation Act, which provides for limitation of 3 years from the time when the right to sue accrues, unlike the mandate under Article 58, where right to sue first accrues is the criteria for taking the starting point of limitation. In the instant case, in our considered view there is no impediment or obstruction for the plaintiff to file a suit for permanent injunction simpliciter without seeking any relief of declaration. The observation of the learned Single Judge that such a suit filed for injunction simpliciter without there being any dispute over the title would alone would fall under Article 113 is totally erroneous. Whether there is

dispute over the right and title or not, it is for the plaintiff to decide as to the nature of relief that he should pray for.

24. Merely because there is dispute over the title, that would not bar the party from instituting a suit for permanent injunction basing on title. In such an event, incidentally the issue of title would be gone into by the Court while examining as to whether the plaintiff is entitled for grant of permanent injunction or not. We are unable to acknowledge the erroneous approach of the learned Single Judge that it is only in case if there is no dispute over the title, a suit for permanent injunction simpliciter can be filed and the same would be governed by Article 113 of the Limitation Act. For instance, even if there is a dispute over the title, and in case if any proceedings are initiated against the plaintiff concerning the rights and title over the Schedule Films being asserted by the plaintiff, notwithstanding the fact that the remedy in respect of the same is barred for the plaintiff under the provisions of Limitation Act, the plaintiff would always be entitled to assert its title and defend itself and also to make counter-claim of seeking a permanent injunction as the bar of limitation provided under the Limitation Act have no application.

25. The decision of the Hon'ble Apex Court in the case of ***PADHIYAR PRAHLADJI CHENAJI (Deceased) through legal representatives Vs. MANIBEN JAGMALBHAI (Deceased) through legal representatives and Others*** reported in ***(2022) 12 SCC 128*** relied upon by the learned Senior Court appearing for the 1st respondent, in our considered view absolutely have no application to the case on hand. From the perusal of paragraph No.12.2, 13 and 17 to 19 of the above said decision, it is evident that the case that fell for consideration before the Hon'ble Apex Court is a case where the relief of permanent injunction was sought as a consequential relief and therefore, the Hon'ble Apex Court, on arriving at a conclusion that the relief of declaration is barred by limitation, the consequential relief also be held to be barred by limitation. Further, that is a case where the relief of permanent injunction was sought as a consequential relief and the defendant therein was also found to be a true owner of the subject property and therefore, the Hon'ble Apex Court came to the conclusion that the relief of permanent injunction cannot be granted in the facts and circumstances of the said case. Therefore, the said decision absolutely has no application to the case on hand.

26. In the light of the above, we have no hesitation to say that the learned Single Judge erred in holding that the relief of permanent injunction sought for by the plaintiff is to be treated as a consequential relief and also committed a grave error in coming to the conclusion that the entire suit is bar by limitation without examining as to whether the relief of permanent injunction is also barred by limitation or not independently.

27. In the light of the above, we are not inclined to interfere with the findings of the learned Single Judge insofar as declaring the relief of declaration as barred by limitation, while setting aside the finding that the suit in its entirety is barred by limitation. Consequently, the original side appeal is partly allowed remanding the matter back to the learned Single Judge for adjudicating the suit on merits excluding the relief of declaration and to decide other issues are concerned. We make it clear that any of the observations made in this order, shall not be construed as holding the relief of permanent injunction as the one within the period of limitation and it is open for the learned Single Judge to examine the same as to the entitlement or otherwise of the plaintiff for relief of permanent injunction as sought for

under relief at Paragraph No.9(b) of the plaint. Taking into consideration the fact that the suit is of the year 2014, we request the learned Single Judge to dispose of the matter on priority basis as expeditiously as possible.

28. Accordingly, the appeal is partly allowed. Connected miscellaneous petitions, if any, shall stand closed. No costs.

(Dr.G.J.,J.) (M.S.K.,J.)
19.11.2025

dpa
Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No

Dr.G.JAYACHANDRAN, J.
and
MUMMINENI SUDHEER KUMAR, J.

dpa

Pre-Delivery Order made in
OSA (CAD) No.20 of 2022

19.11.2025