

14. In view of the aforesaid reasons, we are of the view that the view taken by the Division Bench of Hon'ble Mr. Justice D. Murugesan (as he then was) and Hon'ble Mr. Justice M. Sathyanarayanan disagreeing with the view taken by the Division Benches in *Sarala* and *Chinnathambi cases* (cited supra) is the correct exposition. Thus, we agree with the Division Bench of Hon'ble Mr. Justice D. Murugesan (as he then was) and Hon'ble Mr. Justice M. Sathyanarayanan and we regret to disagree with the view taken by the earlier Division Benches in *Sarala* and *Chinnathambi cases* (cited supra). Therefore, we are constrained to overrule the judgments in *Sarala v. The Commissioner of Police, Greater Chennai and another*, 2005 MLJ (CrL) 1004; and *Chinnathambi v. State of Tamil Nadu*, 2008 (1) MWN (Cr.) 55 (DB) : 2008 (1) MLJ (CrL) 953.

15. Accordingly, we answer the question referred to us that the detention order shall not stand vitiated on the ground that the sponsoring authority while opposing the Bail Application had stated as to the contemplation of invoking preventive detention laws against the individual and thereby he had acted in pre-determined mind.

2013 (3) CTC 8

IN THE HIGH COURT OF MADRAS

S. Nagamuthu, J.

C.R.P.(PD) No.1273 of 2013 & M.P. No.1 of 2013

10.4.2013

T. Ekambaram

.....*Petitioner*

Vs.

Bhavani Sagari

.....*Respondent*

Madras High Court (Jurisdictional Limits) Act, 1927 (4 of 1927) — Madras High Court (Jurisdictional Limits) Extension Act, 1985 (42 of 1985) — Jurisdiction of Madras High Court — Amendments therein whether can be made by virtue of Government Order — Both enactments complimentary to each other and govern issue of territorial jurisdiction of Madras Courts — Any Amendment in jurisdictional area of Madras High Court, held, can be done by amending enactments or by enacting new legislation — Jurisdiction of Madras High Court cannot be altered by means of Government Order — Mere addition of Kathirvedu Village to Chennai City Corporation by virtue of G.O.Ms. No.97 dated 19.7.2011, held, would not bring said Village within jurisdiction of Madras High Court — Jurisdiction of City Civil Court

Chennai is not automatically co-extensive with jurisdiction of Corporation of Chennai — Said G.O., held, would only cover subject dealt with Chennai City Municipal Corporation Act — Chennai City Civil Court, held, would have no jurisdiction over instant Suit for injunction in respect of land situated in Kathirvedu Village — Suit transferred to file of District Munsif, Tiruvottiyur.

Facts : Respondent herein filed Suit before City Civil Court, Chennai for permanent injunction with respect to property situated in Kathirvedu Village. Revision Petitioner/Defendant filed Application seeking to reject Plaint as suit property was not within territorial jurisdiction of City Civil Court, Chennai. Said Application was dismissed by Trial Court. Aggrieved, instant Revision has been preferred by Defendant.

Held : Section 2 of the Act makes it clear that this Act has not repealed the Madras High Court (Jurisdictional Limits) Act, 1927, and this Act is only a complement to the said Act. Therefore, while examining the question as to whether a particular area falls within the Chennai city limits, one has to look into both the Madras High Court (Jurisdictional Limits) Act, 1927 as well as the Madras High Court (Jurisdictional Limits) Extension Act, 1985. [Para 16]

In view of the above settled position, there can be no doubt that it is the wisdom of the State Legislature to modify the general territorial jurisdiction of the High Court and the other Courts. So far as the Madras High Court is concerned, as we have already pointed out, the Madras High Court (Jurisdictional Limits) Act, 1927 and the Madras High Court (Jurisdictional Limits) Extension Act, 1985 govern the field. If the State Legislature intends to add any area to the jurisdiction of the Madras High Court or to delete any area from the jurisdiction of the Madras High Court, the same can be done by either amending the above two enactments or by bringing in any new legislation. [Para 19]

The Government Order in G.O.Ms. No.97, dated 19.7.2011 upon which the Lower Court has made reliance will not alter the territorial jurisdiction of the Madras High Court and the City Civil Court, Chennai since the said G.O. has been issued in exercise of power conferred under the Chennai City Municipal Corporation Act. The said G.O. will therefore cover only the subject dealt with in the said Act. Apart from that, since the jurisdiction of the Madras High Court is governed by Statutes, the same cannot be altered or modified by means of any Government Order. As I have already pointed out, unless, the above said Acts are amended by the State Legislature or a new legislation is brought into force by the State Legislature, the territorial jurisdiction of the Madras High Court will be governed by the Madras High Court (Jurisdictional Limits) Act, 1927 and the Madras High Court (Jurisdictional Limits) Extension Act, 1985. Thus, I hold that the Lower Court was not right in holding that Kathirvedu Village falls within the territorial limits of the City Civil Court, Chennai since mere addition of new areas to the Chennai City Corporation for the purpose of local administration will not have any bearing in the matter of the territorial jurisdiction of the Madras High Court or the City Civil Court, Chennai. [Para 20]

Now turning to the facts of the present case, undoubtedly, the Chennai City Civil Court has got no jurisdiction because the suit property is situated in Kathirvedu village which in turn falls within the territorial jurisdiction of the District Munsif

Court, Tiruvottiyur. Since, it is a Suit for injunction in respect of the land, undoubtedly, it is a Suit for land and therefore, the order in *Pappammal and others v. Tamil Nadu Electricity Board and others*, C.R.P.(NPD) No.592 of 2008, dated 16.2.2008, will not help the Defendant as the said order is *per incuriam*. [Para 27]

In the result, the Civil Revision Petition is allowed and the impugned order of the Lower Court is set aside. The Suit in O.S. No.7289 of 2011 pending on the file of the learned XVI Assistant Judge, City Civil Court, Chennai is hereby transferred to the file of the learned District Munsif, Tiruvottiyur. The learned XVI Assistant Judge, City Civil Court, Chennai is directed to transmit the papers pertaining to O.S. No.7289 of 2011 to the file of the learned District Munsif, Tiruvottiyur. Consequently, the connected Miscellaneous Petition is closed. No costs. [Para 29]

Constitution of India, List III, Entry 11-A — Administration of Justice — Jurisdiction of Madras High Court — State Legislature empowered to confer general jurisdiction on all Courts except Supreme Court under Entry 11-A in List III — As now law made by Parliament with respect to Madras High Courts, Madras High Court (Jurisdictional Limits) Act, 1927 and Madras High Court (Jurisdictional Limits) Extension Act, 1985; enacted by State Legislature, occupy field of jurisdiction of Madras High Court in *praesenti*.

At this juncture, we need to further examine the Constitutional background of the enactments referred to above. Entry 77 in List I deal with “constitution”, “organisation”, “jurisdiction” and “powers” of the Supreme Court. Entry 78 in List I relates to only the “constitution” and “organisation” of the High Court and not with the “jurisdiction” and “powers” of the High Court unlike under Entry 77, which deals with the “jurisdiction” and “powers” of the Supreme Court in addition to “constitution” and “organization”. The jurisdiction and powers of the High Court are dealt with as a separate aspect under Entry 11-A of List III which was in Entry 3 of List II provided under the 42nd Constitutional Amendment Act, 1976. The general jurisdiction of the High Court falls in “administration of justice” under Entry 11-A in the Concurrent List. Entry 95 of the Union List, Entry 65 of the State List and Entry 46 of the Concurrent List refer to the special jurisdictions of the Courts relating to the matter contained in the respective lists. Entry 95 of the Union List deals with the power of the Parliament to confer jurisdiction and powers of the Courts, except the Supreme Court, with respect to any of the matters enumerated in List I. Similarly, Entry 65 of List II deals with the power of the State Legislature to confer jurisdiction and powers of all Courts, except the Supreme Court, with respect to the matters contained in the State List. Entry 46 in the Concurrent List refers to the jurisdiction and powers of the Courts, except the Supreme Court, with respect to all the matters contained in the concurrent list. Thus, it is crystal clear that the State Legislature has power to confer general jurisdiction on all Courts except the Supreme Court, under Entry 11-A in the Concurrent List falling within the meaning “administration of justice”. [Para 17]

As this subject falls under Entry 11-A of the Concurrent List, since the Parliament has not made any law in respect of the jurisdiction of the Madras High Court, the above two State enactments occupy the field as of now. [Para 19]

Jurisprudence — Decision passed *per incuriam* — Consequence of — Decision of Single Judge in *Pappammal and others v. TN Electricity Board and others* dated 16.2.2008 that in Suits for injunction even if suit property is outside of Chennai City limits, if Defendant resides within city limits, Chennai City Civil Court would have jurisdiction — Said decision, held, *per incuriam* as passed in contravention to CPC as well as decisions of Apex Court and Division Bench of Madras High Court — With respect to Suits entertained as per decision of Single Judge in *Pappammal case* by City Civil Courts, further action to be decided in accordance with provisions of CPC.

Thus, the law is well settled by the Hon'ble Supreme Court as well as by the above three Division Bench judgments that a Suit for injunction to restrain the Defendant from interfering with the peaceful possession and enjoyment of the Plaintiff is a Suit for land. Therefore such Suit can be entertained only by the Court within whose jurisdiction the suit property lies. Therefore, I regret to hold that the order of this Court in *Pappammal and others v. Tamil Nadu Electricity Board and others*, C.R.P.(NPD) No.592 of 2008, dated 16.2.2008, referred to above is *per incuriam*, which is contrary to the statutory provisions contained in the Code of Civil Procedure and the Division Bench judgments referred to above as well the judgments of the Hon'ble Supreme Court. [Para 25]

This Court is informed that several such Suits have been entertained by the City Civil Court, Chennai by relying on the order in *Pappammal and others v. Tamil Nadu Electricity Board and others*, C.R.P.(NPD) No.592 of 2008, dated 16.2.2008. In respect of such pending Suits, it is for the respective City Civil Court to decide about the future course of action in accordance with the Code of Civil Procedure. [Para 26]

Editor's Note: This judgment covers the Constitutional history of High Court and tracing of jurisdiction.

CASES REFERRED

A. Velliangiri (deceased) v. Ram Bahadur Takur (P) Ltd., 1998 (1) CTC 436 (DB)	23
Adcon Electronics Pvt. Ltd. v. Daulate, 2001 (4) CTC 39 (SC)	22
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Timothy Bowen v. Cienergen Corporation, 2011 (6) CTC 835 (DB)	24

K.V. Sajeew Kumar, Advocate for Petitioner.

R.T. Shyamala, Advocate for Respondent.

B. Vijay & V. Lakshminarayanan, Advocates as Amicus Curiae.

C.R.P. ALLOWED — M.P. CLOSED — NO COSTS

Prayer : Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order dated 23.1.2013 in I.A. No.2601 of 2012 in O.S. No.7289 of 2011 on the file of the learned XVI Assistant Judge, City Civil Court, Chennai.

JUDGMENT

1. What is the territorial jurisdiction of the Chennai City Civil Court ? What are the local limits of the Ordinary Original Civil jurisdiction of the High Court ? Whether the local limits of the Ordinary Original Civil jurisdiction of the High Court coincides with the limits of the Chennai City Municipal Corporation ? These are the questions which have arisen for examination in this Civil Revision Petition.

2. The Petitioner is the Defendant in O.S. No.7289 of 2011 on the file of the learned XVI Assistant Judge, City Civil Court, Chennai. The Respondent has filed the said Suit seeking a decree for permanent injunction to restrain the Defendant from in any manner interfering with his alleged peaceful possession and enjoyment of the suit property. The suit property has been described as follows:

“All that piece and parcel of the house and land bearing Old No.54-A, New No 42 (Previously Old No.56, New No 63), 4th Street, Sri Padmavathy Nagar Extension, Vinayagapuram, Kolathur (previously Kathirvedu village), Chennai-99, comprised in Survey No.51/3B as found in “Sri Padmavathi Nagar Extension” (four boundaries given in the Plaint are omitted as unnecessary).”

3. According to the Plaint, the suit property lies within the territorial jurisdiction of the City Civil Court, Chennai. On appearance before the Lower Court, the Defendant filed an Interlocutory Application in I.A. No.2601 of 2012 seeking to reject the Plaint as neither the suit property falls within the territorial jurisdiction of the City Civil Court, Chennai nor had there been any cause of action, either in full or in part, occurred within the territorial jurisdiction of the City Civil Court, Chennai. According to the Defendant, the suit property lies in Kathirvedu revenue village and the said revenue village falls within the territorial jurisdiction of the District Munsif Court, Tiruvottiyur. Alternatively it was also contended before the Lower Court that presently, the suit property falls within the revenue village of Kolathur and Kolathur village falls within the territorial jurisdiction of the Chennai City Civil Court.

4. The Trial Court went into the above question of jurisdiction and finally dismissed the Interlocutory Application holding that the suit property falls within the territorial jurisdiction of the City Civil Court, Chennai. Challenging the said order, the Petitioner is before this Court with this Revision Petition.

5. I have heard the learned Counsel on either side and the *Amicus Curiae* and perused the records carefully.

6. There are certain title deeds filed along with the Plaint and all the said deeds would go to show that the suit property forms part of Kathirvedu Village. The Respondent has got no material to place before the Court that

Kathirvedu Village was segmented and a part of the same including the suit property was brought within the revenue village of Kolathur. Indisputably, the revenue village Kolathur falls within the jurisdiction of the Chennai City Civil Court. The learned Counsel appearing for the Respondent is not in a position to place any such material to substantiate the averment in the Plaint that the suit property falls within the Kolathur revenue village. Therefore, on facts, I have to necessarily hold that the suit property forms part of the Kathirvedu revenue village falling within Ambattur Taluk and thus, Kathirvedu village in turn is only within the territorial jurisdiction of the District Munsif Court at Tiruvottiyur.

7. But, strangely, an argument had been advanced before the Lower Court by the learned Counsel appearing for the Respondent herein that as per the Tamil Nadu Government Order in G.O.Ms. No.97, Municipal Administration and Water Supply (Election), dated 19.7.2011, the entire Kathirvedu village has been brought within the Chennai Corporation limits and thus Kathirvedu village, was, though originally within the territorial jurisdiction of the District Munsif Court, Tiruvottiyur, on account of the said G.O., Kathirvedu village has now come within the territorial jurisdiction of the Chennai City Civil Court. The Trial Court has accepted the said contention of the Respondent. In this Civil Revision Petition, the said finding of the Lower Court is very seriously challenged by the Petitioner. According to him, the said G.O. does not confer jurisdiction upon the City Civil Court, Chennai to entertain any Suit in respect of a property or cause of action arising from the Kathirvedu village.

8. Before going into the further debate, let us now have a quick look into the Government Order in G.O.Ms. No.97, Municipal Administration and Water Supply (Election), dated 19.7.2011 which reads as follows:

“Municipal Administration and Water Supply Department Proposal for delimitation of certain divisions under the Chennai City Municipal Corporation Act.

(G.O.Ms. No.97, Municipal Administration and Water Supply (Election), 19th July, 2011)

No.11(2)/MAWS/321(e)/2011.

In exercise of the powers conferred by sub-section (1) of Section 45 of the Chennai City Municipal Corporation Act, 1919 (Tamil Nadu Act IV of 1919) and in supersession of all previous Notifications issued on the above subject, the Governor of Tamil Nadu divides the City of Chennai into two hundred territorial divisions for the purpose of election of two hundred councillors and hereby fixes the boundaries of the said two hundred divisions, as described in the Schedule below:

2. This delimitation shall take effect from the next ordinary elections of the Council of Municipal Corporation of Chennai.

The Schedule

<i>Division No. (1)</i>	<i>Boundaries North West – Clockwise (2)</i>	<i>Existing Local Body (3)</i>	<i>Existing Ward Division No.(4)</i>	<i>Assembly Constituency (5)</i>
***	***	***	***	***
24	Valluvar Nagar, Senthil Nagar, Kathirvedu, Surappattu, Puthagaram, Jothi Road, Pellavarai Street, Sarasvathi Nagar, Geetha Nagar, Sarathi Nagar, Santhosh Nagar, Iyyappan Nagar, Janaki Nagar, Annai Rajammal Nagar, Annai Indira Nagar, Kadappa Road, Vallalar Street, National Highway Bridge, Sivaprakasam Nagar, Anna Nagar, Ambattur Main Road, Murgambedu Union Road, Puzhal E.R.I., Annai Indira Nagar, Bharathithasan Nagar, Brindavanam Nagar, Mathur, T.W.A.D. (Office) Puzhal, Ambattur	Surapattu and Puthagaram	All wards	Madhavaram
***	***	***	***	***

9. A plain reading of the above Government Order would make it undoubtedly clear that the Government has issued the said G.O. in exercise of the power conferred under Section 45(1) of the “Chennai City Municipal Corporation Act, 1919” for the purpose of election of 200 councillors. Accordingly, as per the said G.O., the boundaries were fixed for the said 200 divisions as described in the schedule itself. Thus, the G.O. has brought within the Chennai City Corporation limits Kathirvedu village.

10. The further question now is whether the jurisdiction of the City Civil Court will automatically get extended to the areas, which have been now annexed to the Chennai City Municipal Corporation as per G.O.Ms. No.97, dated 19.7.2011.

11. The territorial jurisdiction of the Chennai City Civil Court is governed by the “Chennai City Civil Court Act, 1892”. This Act, which was originally known as the “Madras City Civil Court Act, 1892”, came into being in 1892. The word ‘Madras’ was substituted by the word ‘Chennai’ as per the Tamil Nadu Act 28 of 1996. Thus, under this Act, the Chennai City Civil Court, shall have jurisdiction over the City of Chennai. The term ‘City of Chennai’ is defined under Section 2(2) of the Act as follows:

“2(2) ‘City of Chennai’ means the area within the local limits for the time being of the ordinary Original Civil jurisdiction of the High Court.”

From a reading of the said provision, it is clear that the City Civil Court, Chennai shall have jurisdiction over the area which falls within the local limits of the jurisdiction of the ordinary Original Civil jurisdiction of the Madras High Court. Now, let us examine as to what are the local limits of the Ordinary Original Civil jurisdiction of the High Court.

12. At this juncture, it would be useful to know the brief history of the jurisdiction of the Chartered Madras High Court. The British Parliament passed “The Indian High Courts Act” on 6.8.1861 which conferred powers upon the British Crown to establish High Courts at Calcutta, Madras and Bombay by issuing Letters Patent under the Great Seal of the United Kingdom of Great Britain and Ireland. Accordingly, Queen Victoria issued a Letters Patent on 26.6.1862 establishing at Madras for the Presidency of Madras, this “High Court of Judicature at Madras” to be a Court of Record. The said Letters Patent of the year 1861 was later on revoked and in its place another Letters Patent was issued by Queen Victoria on 28.12.1865. As per these Letters Patent, the High Court should have and exercise, among other jurisdictions, ordinary Original Civil jurisdiction. Clause 11 of the Letters Patent of the year 1865, deals with the local limits of the Ordinary Original jurisdiction of the High Court. It reads as follows:

“11. *Local limits of the ordinary original jurisdiction of the High Court.*— And we do hereby ordain that the said High Court of Judicature at Madras shall have and exercise ordinary Original Civil Jurisdiction within such local limits as may from time to time be declared and prescribed by any law made by the Governor-in-Council, and, until some local limits shall be so declared and prescribed within the limits of the local jurisdiction of the said High Court of Madras at the date of the publication of these presents, and the ordinary Original Civil jurisdiction of the said High Court shall not extend beyond the limits for the time being declared and prescribed as the local limits of such jurisdiction.”

13. In pursuance of Clause 11 of the Letters Patent, the Governor-in-Council enacted “The Madras High Court (Jurisdictional Limits) Act, 1927”. The preamble to the said Act states:

“WHEREAS Clause 11 of the Letters Patent for the High Court of Judicature at Madras, dated the 28th December 1865, provides that the said High Court shall have and exercise Ordinary Original Civil jurisdiction within such local limits as may, from time to time, be declared and prescribed by any law made by *the State Government* (*);

AND WHEREAS it is expedient so to declare and prescribe the local limits of the Ordinary Original Civil jurisdiction of the said High Court;

AND WHEREAS the previous sanction of High Excellency the Governor-General has been obtained; It is hereby enacted as follows:

1. *Short title.*— This Act may be called the Madras High Court (Jurisdictional Limits) Act, 1927.

2. *Limits of ordinary original civil jurisdiction of Madras High Court.*— The Ordinary Original Civil jurisdiction of the High Court of Judicature at Madras shall be exercised within the limits set out in the Schedule:

Provided that nothing in this Act shall affect any Suit or other legal proceeding pending in any Court at the date of the commencement of this Act.”

(*)*Note:* The expression “the State Government” was substituted for the expression “Governor-in-Council” by Tamil Nadu Adaptation of Laws Order 1970} (emphasis added)

14. The Schedule of the Act specifically names the limits; for example the Eastern boundary of Chennai City is “The Sea”. The boundaries of all the other three sides have been mentioned by means of the Survey Numbers of various villages. Therefore, as per this Act, all the villages, hamlets and all other areas, falling within the said four boundaries will fall within the territorial jurisdiction of the Madras High Court and in turn within the territorial jurisdiction of the Chennai City Civil Court. As we have seen, this Act, was issued by the Governor-in-Council during the colonial period. After independence, the said Act was adopted and post Constitution also the jurisdictional limits of the High Court was exclusively governed by the same.

15. Then came the Madras High Court (Jurisdictional limits) Extension Act, 1985 (Tamil Nadu Act 42 of 1985). The preamble of the Act states:

“An Act to provide for the extension of the Ordinary Original Civil jurisdiction of the Madras High Court to certain areas.”

For better understanding, let us extract the entire Act:

“Be it enacted by the Legislature of the State of Tamil Nadu in the Thirty sixth Year of the Republic of India as follows:

1. Short title and saving.— (1) This Act may be called the Madras High Court (Jurisdictional Limits) Extension Act, 1985. (2) Nothing in this Act shall affect any suit or other legal proceeding pending in any Court at the date of the commencement of this Act.

2. Extension of ordinary original civil jurisdiction of Madras High Court.— Notwithstanding anything contained in the Madras High Court (Jurisdictional Limits) Act, 1927 (Tamil Nadu Act IV of 1927) or any other law for the time being in force, the ordinary original civil jurisdiction of the High Court of Judicature of Madras shall also extend to the areas comprised in the revenue villages specified in the Schedule.”

16. Section 2 of the Act makes it clear that this Act has not repealed the Madras High Court (Jurisdictional Limits) Act, 1927, and this Act is only a complement to the said Act. Therefore, while examining the question as to whether a particular area falls within the Chennai city limits, one has to look into both the Madras High Court (Jurisdictional Limits) Act, 1927 as well as the Madras High Court (Jurisdictional Limits) Extension Act, 1985.

17. At this juncture, we need to further examine the Constitutional background of the enactments referred to above. Entry 77 in List I deal with “constitution”, “organisation”, “jurisdiction” and “powers” of the Supreme Court. Entry 78 in List I relates to only the “constitution” and “organisation” of the High Court and not with the “jurisdiction” and “powers” of the High

Court unlike under Entry 77, which deals with the “jurisdiction” and “powers” of the Supreme Court in addition to “constitution” and “organization”. The jurisdiction and powers of the High Court are dealt with as a separate aspect under Entry 11-A of List III which was in Entry 3 of List II provided under the 42nd Constitutional Amendment Act, 1976. The general jurisdiction of the High Court falls in “administration of justice” under Entry 11-A in the Concurrent List. Entry 95 of the Union List, Entry 65 of the State List and Entry 46 of the Concurrent List refer to the special jurisdictions of the Courts relating to the matter contained in the respective lists. Entry 95 of the Union List deals with the power of the Parliament to confer jurisdiction and powers of the Courts, except the Supreme Court, with respect to any of the matters enumerated in List I. Similarly, Entry 65 of List II deals with the power of the State Legislature to confer jurisdiction and powers of all Courts, except the Supreme Court, with respect to the matters contained in the State List. Entry 46 in the Concurrent List refers to the jurisdiction and powers of the Courts, except the Supreme Court, with respect to all the matters contained in the Concurrent List. Thus, it is crystal clear that the State Legislature has power to confer general jurisdiction on all Courts except the Supreme Court, under Entry 11-A in the Concurrent List falling within the meaning “administration of justice”.

18. A Constitution Bench of the Hon’ble Supreme Court in *Jamshed N. Guzdar v. State of Maharashtra*, 2005 (2) SCC 591, had the occasion to examine the above entries and the relative power of the Parliament and the State Legislature in the matter of “constitution”, “organisation” and “jurisdiction of the Courts”. After having made a scientific analysis of all the above provisions, the Hon’ble Supreme Court in paragraph 53 has declared as follows:

“53. Thus, on and after 3.1.1977 the situation appears to be as under:—

- (a) Parliament alone has the competence to legislate with respect to Entry 78 of List I to ‘constitute and organize’ the High Court;
- (b) Both Parliament and State Legislature can invest such a High Court with general jurisdiction by enacting an appropriate legislation referable to ‘administration of justice’ under Entry 11-A of List III.
- (c) Parliament may under Entry 95 of List I invest the High Court with jurisdiction and powers with respect to any of the matters enumerated in List I.
- (d) State Legislature may invest the High Court with the jurisdiction and powers with respect to any of the matters enumerated in List II
- (e) Both Parliament and State Legislature may by appropriate legislation referable to Entry 46 of List III invest the High Court with jurisdiction and powers with respect to any of the matters enumerated in List III.”

19. In view of the above settled position, there can be no doubt that it is the wisdom of the State Legislature to modify the general territorial jurisdiction of the High Court and the other Courts. So far as the Madras High Court is concerned, as we have already pointed out, the Madras High Court (Jurisdictional Limits) Act, 1927 and the Madras High Court

(Jurisdictional Limits) Extension Act, 1985 govern the field. If the State Legislature intends to add any area to the jurisdiction of the Madras High Court or to delete any area from the jurisdiction of the Madras High Court, the same can be done by either amending the above two enactments or by bringing in any new legislation. As this subject falls under Entry 11-A of the Concurrent List, since the Parliament has not made any law in respect of the jurisdiction of the Madras High Court, the above two State enactments occupy the field as of now.

20. The Government Order in G.O.Ms. No.97, dated 19.7.2011 upon which the Lower Court has made reliance will not alter the territorial jurisdiction of the Madras High Court and the City Civil Court, Chennai since the said G.O. has been issued in exercise of power conferred under the Chennai City Municipal Corporation Act. The said G.O. will therefore cover only the subject dealt with in the said Act. Apart from that, since the jurisdiction of the Madras High Court is governed by Statutes, the same cannot be altered or modified by means of any Government Order. As I have already pointed out, unless, the above said Acts are amended by the State Legislature or a new legislation is brought into force by the State Legislature, the territorial jurisdiction of the Madras High Court will be governed by the Madras High Court (Jurisdictional Limits) Act, 1927 and the Madras High Court (Jurisdictional Limits) Extension Act, 1985. Thus, I hold that the Lower Court was not right in holding that Kathirvedu Village falls within the territorial limits of the City Civil Court, Chennai since mere addition of new areas to the Chennai City Corporation for the purpose of local administration will not have any bearing in the matter of the territorial jurisdiction of the Madras High Court or the City Civil Court, Chennai.

21. During the course of the hearing of this Civil Revision Petition, on a direction issued by this Court, the Registrar of the City Civil Court appeared before this Court and she brought to the notice of this Court that as per the order of this Court in *Pappammal and others v. Tamil Nadu Electricity Board and others*, C.R.P.(NPD) No.592 of 2008, dated 16.2.2008, Suits with a prayer for permanent injunction relating to immovable properties, notwithstanding the fact that the suit properties do not lie within the Chennai City limits, are also entertained by the Chennai City Civil Court. She has further brought to the notice of the Court that in the said order, this Court has held that in the event the Defendant resides within the city limits, though the suit property relating to which injunction decree is sought for is situated outside the city limits, in view of the Proviso to Section 16 of the Code of Civil Procedure, the City Civil Court, Chennai has got jurisdiction to entertain the Suit. I have gone through the said order of the learned Single Judge. For better understanding, let me extract Paragraphs 2 & 3 of the said order, which reads as follows:

“2. Heard the learned Counsel for the Revision Petitioners, who would focus the attention of this Court to the proviso to Section 16 of CPC, which reads as follows:

“16. Suits to be instituted where subject-matter situate.—

(a)

(b)

(c)

(d) for the determination of any other right to or interest in immovable property,

(e)

(f)

Provided that a Suit to obtain relief respecting, or compensation for wrong to, immovable property held by or behalf of the Defendant may, where the relief sought can be entirely obtained through his personal obedience, be instituted either in the Court within the local limits of whose jurisdiction the property is situate, or in the Court, within the local limits of whose jurisdiction the Defendant actually and voluntarily resides, or carries on business, or personally works for gain.

Explanation: In this Section “property” means property situate in India.”

Admittedly the Defendants 1 & 2 are in madras. Under such circumstances, it cannot be said that the Suit has been filed before a wrong forum.

3. In fine, the Revision is allowed and the order passed in O.S. No.1635 of 2002 by the learned VII Assistant Judge, City Civil Court, Chennai, dated 5.11.2007, is set aside. The learned VII Assistant Judge, City Civil Court, Chennai, is directed to restore O.S. No.1635 of 2002 to his file and proceed with the case and dispose of the same within a period of one month from the date of receipt of copy of this order, since it is represented that the entire trial has been completed.”

I regret that I am unable to subscribe to the said view taken by the learned Single Judge in this regard.

22. The learned *Amicus Curiae*, Mr. B. Vijay, has brought to my notice, a Division Bench (Hon`ble Mr. Justice A.P. Shah, C.J, as he then was and Hon`ble Mr. Justice M. Jaichandran) judgment of this Court in *Thamiraparani Investments Pvt. Ltd. v. Meta Films Pvt. Ltd.*, 2006 (1) CTC 270 (DB), wherein, in respect of a property situated outside the jurisdiction of the Madras High Court, the Plaintiff filed an Application for grant of leave on the ground that the agreement for sale based upon which the Suit for injunction was filed was entered into within the Ordinary Original jurisdiction of the Madras High Court. The argument advanced before the Division Bench was that the Suit for bare injunction cannot be said to be a suit pertaining to a land within the meaning of Clause 12 of the Letters Patent of 1865 and in any event, for the relief of injunction sought for by the Plaintiff, the Defendant’s title or possession of land is not likely to be affected and therefore, the said Suit cannot be stated as a Suit for land. After having referred to a Federal Court judgment in *Moolji Jaitha and Company v. The Khandesh Spinning and Weaving Mills Company Ltd.*, AIR 1950 FC 83 and the judgment of the Hon`ble Supreme Court in *Adcon Electronics Pvt. Ltd. v. Daulate and another*, 2001 (4) CTC 39 (SC) and

lastly a Division Bench judgment of this Court in *Southern Petrochemical Industries Corporation Ltd. v. Durga Iron Works*, 1995 (2) CTC 602 (DB), the Division Bench held as follows in paragraph 12:

“12. Further, a reading of Paragraph 20 of the Plaint clearly shows that the allegation of the Plaintiff is that since the Defendant is encroaching upon the Suit “A” schedule property which is beyond the territorial jurisdiction of this Court, the Plaintiff has sought for a decree for permanent injunction. It is not disputed that the registered office of the Defendant is at No. 157/1, G.N.T. Road, Chinnambedu Post, Kavarapet-601 206, Tiruvallur District, which is situated outside the jurisdiction of this Court and the Defendant has no office within the jurisdiction of this Court. The present Suit being one for bare injunction, it is a Suit for land. In other words, it is a Suit for the purpose of acquiring possession of or safeguarding possession of or establishing title to or a right in land viz., the suit schedule property. It is well settled that the expression ‘suit for land’ should not be confined and limited to Suits for recovery of possession of land or to obtain a declaration of title to land only. The present Suit being one for control of land lying outside the jurisdiction of this Court, this Court has no jurisdiction to entertain the Suit and consequently, the learned Single Judge has rightly revoked the leave.”

23. Another Division Bench of this Court in *A. Velliangiri (deceased) and three others v. Ram Bahadur Takur (P) Ltd. and three others*, 1998 (1) CTC 436 (DB), had considered a similar question as to whether a Suit for injunction is a Suit for land. In Paragraphs 25 to 27 the Division Bench has held as follows:

“25. That was a Suit principally for Specific Performance of an agreement, and alternatively for refund of money. In the said Suit, ancillary relief of permanent injunction was sought, for restraining the Respondents from alienating or dealing with the suit property in anyway. On the facts of that case it is clear that neither the Suit was one for title or possession; in other words neither the title nor possession would be affected by granting a decree for Specific Performance. That was not a Suit in which the primary object was to establish claims regarding title to the property or to possession of the property.

26. In the light of the arguments advanced by the learned Counsel for the parties, the learned Single Judge has also dealt with a case with reference to Sections 22 & 28(3) of the Specific Relief Act, 1963, and Section 52 of the Transfer of Property Act, in the light of the decisions cited. In our view, it may not be necessary for us to state them again in our Judgment, particularly so when the parties did not emphasise before us on all those points.

27. Thus on the clear and undisputed facts, so far as they are relating to the question of jurisdiction, we have no hesitation to hold that the present Suit is for land coming within the scope of Clause 12 of the Letters Patent, and the suit properties being outside the jurisdiction of this Court, the leave granted earlier was rightly revoked by the learned Single Judge. We do not see any valid or good ground to differ with the conclusions arrived at by the learned Single Judge.”

24. The said view of the earlier two Division Benches have been followed recently by yet another Division Bench in *Timothy Bowen v. Clenergen Corporation*, 2011 (6) CTC 835 (DB) and also by a learned Single Judge in A. No.5097 of 2011 dated 2.11.2011.

25. Thus, the law is well settled by the Hon'ble Supreme Court as well as by the above three Division Bench judgments that a Suit for injunction to restrain the Defendant from interfering with the peaceful possession and enjoyment of the Plaintiff is a Suit for land. Therefore such Suit can be entertained only by the Court within whose jurisdiction the suit property lies. Therefore, I regret to hold that the order of this Court in ***Pappammal and others v. Tamil Nadu Electricity Board and others***, C.R.P.(NPD) No.592 of 2008, dated 16.2.2008, referred to above is *per incuriam* which is contrary to the statutory provisions contained in the Code of Civil Procedure and the Division Bench judgments referred to above as well the judgments of the Hon'ble Supreme Court.

26. This Court is informed that several such Suits have been entertained by the City Civil Court, Chennai by relying on the order in ***Pappammal and others v. Tamil Nadu Electricity Board and others***, C.R.P.(NPD) No.592 of 2008, dated 16.2.2008. In respect of such pending Suits, it is for the respective City Civil Court to decide about the future course of action in accordance with the Code of Civil Procedure.

27. Now turning to the facts of the present case, undoubtedly, the Chennai City Civil Court has got no jurisdiction because the suit property is situated in Kathirvedu village which in turn falls within the territorial jurisdiction of the District Munsif Court, Tiruvottiyur. Since, it is a suit for injunction in respect of the land, undoubtedly, it is a Suit for land and therefore the order in ***Pappammal and others v. Tamil Nadu Electricity Board and others***, C.R.P.(NPD) No.592 of 2008, dated 16.2.2008, will not help the Defendant as the said order is *per incuriam*.

28. The learned Counsel for the Respondent submitted that in the event this Court comes to the conclusion that the City Civil Court, Chennai has got no jurisdiction, the Suit may be transferred to the District Munsif Court at Tiruvottiyur, within whose jurisdiction the suit property is situated. I find justification in the said submission.

29. In the result, the Civil Revision Petition is allowed and the impugned order of the Lower Court is set aside. The Suit in O.S. No.7289 of 2011 pending on the file of the learned XVI Assistant Judge, City Civil Court, Chennai is hereby transferred to the file of the learned District Munsif, Tiruvottiyur. The learned XVI Assistant Judge, City Civil Court, Chennai is directed to transmit the papers pertaining to O.S. No.7289 of 2011 to the file of the learned District Munsif, Tiruvottiyur. Consequently, the connected Miscellaneous Petition is closed. No costs.

30. Before parting with the order, I would like to place on record my appreciation for the wonderful assistance rendered by the *Amicus Curiae* Mr. B. Vijay and Mr. V. Lakshminarayanan.
