

TAMIL NADU STATE JUDICIAL ACADEMY

**** VOL. XVIII— PART06— JUNE 2023 ****

IMPORTANT CASE LAWS



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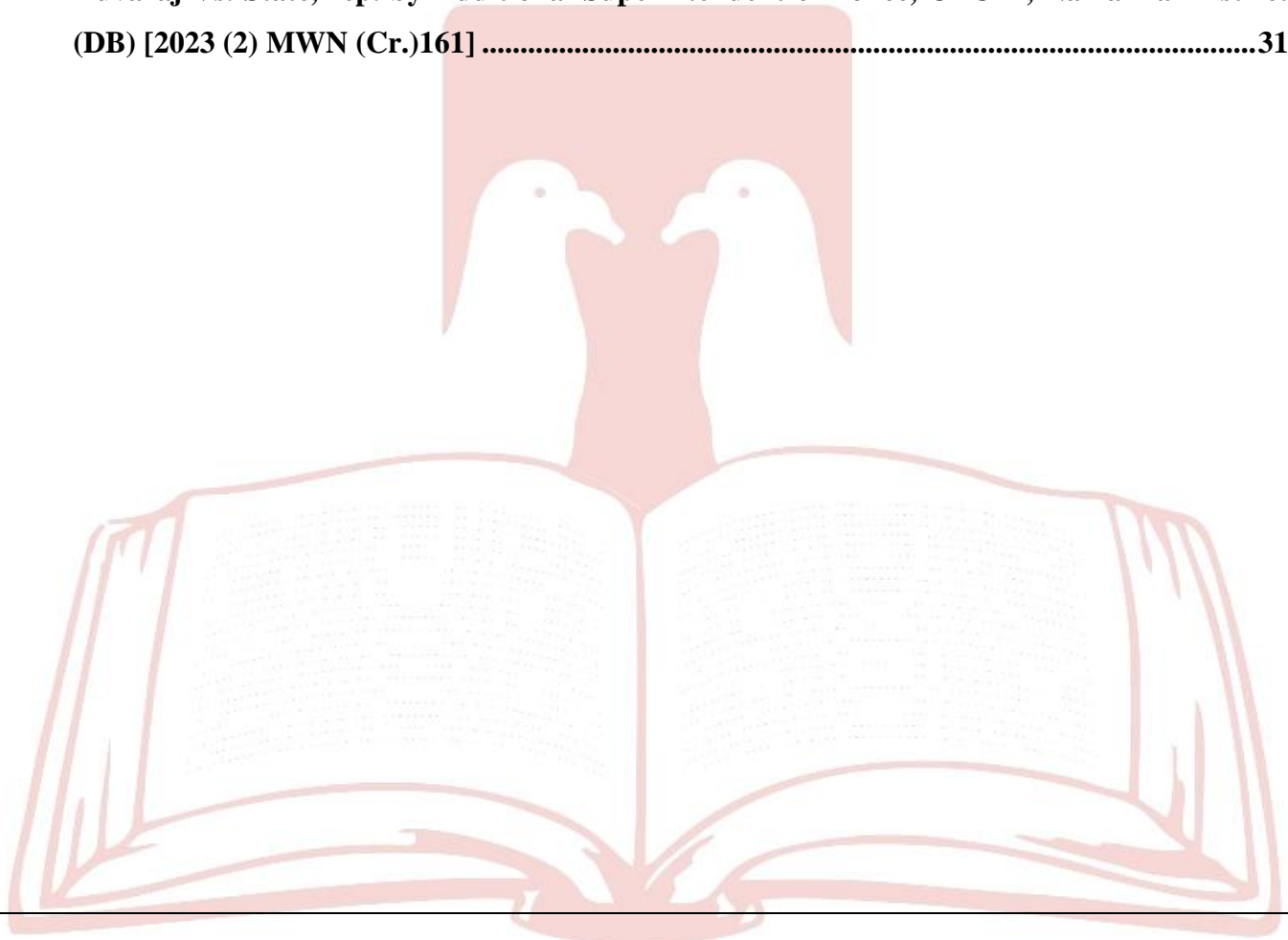
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TABLE OF CONTENTS

SUPREME COURT - CIVIL CASES	1
Ganesh Prasad Vs. Rajeshwar Prasad [2023 (2) MWN (Civil) 449]	1
Hemalatha. R. Vs. Kashthuri [2023 (2) MWN (Civil) 473]	2
Future Sector Land Developers LLP Vs. Bagmane Developers (P) Ltd. [2023 (5) SCC 368] .	3
CST Vs. Quick Heal Technologies Ltd. [2023 (5) SCC 469]	4
State (NCT of Delhi) Vs. Dayanand [2023 (5) SCC 381]	5
SUPREME COURT – CRIMINAL CASES.....	6
Ravasaheb Vs. State of Karnataka [2023 (5) SCC 391].....	6
State Vs. T.Gangi Reddy [2023 (2) SCC (Crl.) 241].....	7
Neeraj Dutta Vs. State (NCT of Delhi) [2023 (2) SCC (Crl.) 352]	8
Sebil Elanjimpally Vs. State of Odisha [2023 (2) MWN (Cr.) 330]	9
Sri Mahavir Agency Vs. State of West Bengal [2023 (2) MLJ (Crl.) 492]	10
HIGH COURT - CIVIL CASES	11
Manivasagam Vs. Karmegam [2023 (2) MWN (Civil) 437]	11
Thanikachalam, S. Vs. M. Perumal [2023(3) CTC 636]	12
Prithiviraj Vs. A. Muneeswaran [2023 (3) CTC 593]	13
Raja S. Vs. Hindustan Unilever Ltd., Tea Factory Man. [2023 (3) CTC 736 (DB)]	14
Gopalasamy Jayaraman (died) Vs. Kothandaraman [2023 (3) CTC 753].....	15
Zonal Manager, Reliance Gen. Ins. Co. Ltd., Chennai Vs. Ezhilmathi [2023 (1) TN MAC 754 (DB)]	16
K.Chandrsekaran Vs. K.Shyamalamba (Died) & others [2023 (3) L.W. 58]	17
C.Raja Vs. M.Sridevi @ Kalpana [2023 (3) L.W. 1].....	18
Asoka Service, Rep. by Partner, R.Muthukrishnan Vs. K.Palaniappan [2023 (3) L.W. 62] ..	19
Sambavi S Vs. Balasundaram (Died) [2023 (2) MWN (Civil) 444].....	20

HIGH COURT – CRIMINAL CASES21

Sathish, P. @ Sathish Kumar Vs. State, rep. by Inspector of Police-Law & Order, H-4, Korukkupet Police Station, Chennai (DB) [2023 (3) CTC 645].....	21
Mangalanatha Durai Vs. State through the Inspector of Police, Bazaar Police Station, Ramanathapuram (DB) [2023 (2) MWN (Cr.) 287].....	23
Thangaraj Vs. State Inspector of Police [2023 (2) MLJ (Crl) 469].....	24
Saravanan Vs. State [2023 (2) MLJ (Crl) 561].....	25
Selvam Vs. Inspector of Police, Virudhunagar West Police Station, Virudhunagar District [2023 (2) MWN (Cr.) 314].....	26
Ramamurthy Vs. Inspector of Police, CBCID, Krishnagiri [2023 (2) MLJ (Crl.) 566]	27
K.Kumaresan & Ors. Vs. State, rep. by the Inspector of Police, T-15, SRMC Police Station, Porur [2023 (1) L.W. (Crl.) 904]	28
M.C.Baby Vs. M/s. Sastha Home Tech, rep. by its Partner, Mr.S.G.Konda Reddy, No.34, Spurtank Road, Chetpet, Chennai [2023 (1) L.W. (Crl.) 886]	29
Saravanan Vs. State, rep. by the Deputy Superintendent of Police, Pennagaram Police Station, Dharmapuri District [2023 (1) L.W. (Crl.) 917].....	30
Yuvaraj Vs. State, rep. by Additional Superintendent of Police, CBCID, Namakkal District (DB) [2023 (2) MWN (Cr.)161]	31



SUPREME COURT - CIVIL CASES

[Ganesh Prasad Vs. Rajeshwar Prasad \[2023 \(2\) MWN \(Civil\) 449\]](#)

Date of Judgment: 14-03-2023

Code of Civil Procedure, 1908 (5 of 1908), Order 9, Rule 9 & Order 9, Rule 8 - Transfer of Property Act, 1882 (4 of 1882), Sections 60 & 83 - Right of Redemption in an incident of subsequent Mortgage subsists as long as Mortgage subsists - Right conferred on Mortgagor can be extinguished only by act of parties or by Decree of Court - Thus, when a previous Suit filed for Redemption of Mortgage is dismissed for default, subsequent Suit filed by Redemption, would not be barred under Order 9, Rule 9, if same is filed within period of limitation.



Hemalatha. R. Vs. Kashthuri [2023 (2) MWN (Civil) 473]**Date of Judgment: 10-04-2023**

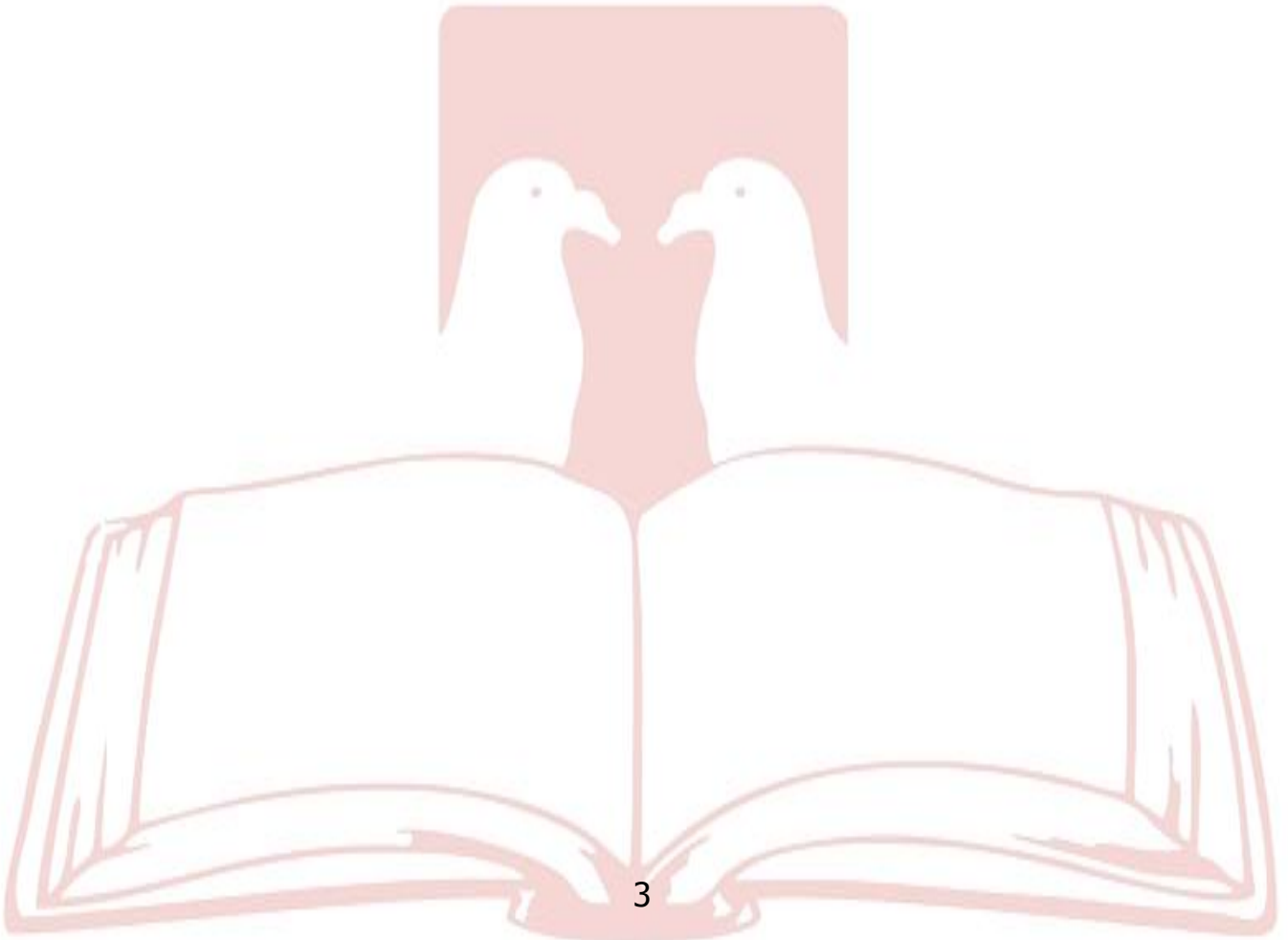
Registration Act, 1908 (16 of 1908), Sections 17(1)(g) [as inserted by Registration (Tamil Nadu Amendment) Act, 2012 (29 of 2012)], 17(2), 17(1-A), 49 & 53-A - Unregistered Agreement of Sale - Admissibility in evidence - Suit for Specific Performance of Agreement of Sale Objection to admissibility of unregistered Agreement of Sale - Sub-clause (g) inserted in Section 17(1) vide Tamil Nadu Amendment Act of 2012 - Object of Amendment is to ensure that Public exchequer is not at loss - However, Proviso to Section 49 permits admission of unregistered document as evidence in a Suit for Specific Performance - No corresponding amendment to Section 49 - Section 17(1-A) inserted in year 2001 vide which all documents containing Contracts to transfer immovable property for consideration to be compulsorily registered, if not they shall not have any effect for purpose of Section 53-A - Document, in instant case, not falling under the category of document as per Section 17(1-A) - Consequently, as per Proviso to Section 49, unregistered Agreement admissible in evidence in Suit for Specific Performance – Judgment of High Court permitting admissibility of Agreement to Sell, upheld - Appeal dismissed.

Future Sector Land Developers LLP Vs. Bagmane Developers (P) Ltd.
[2023 (5) SCC 368]

Date of Judgment : 02.03.2023

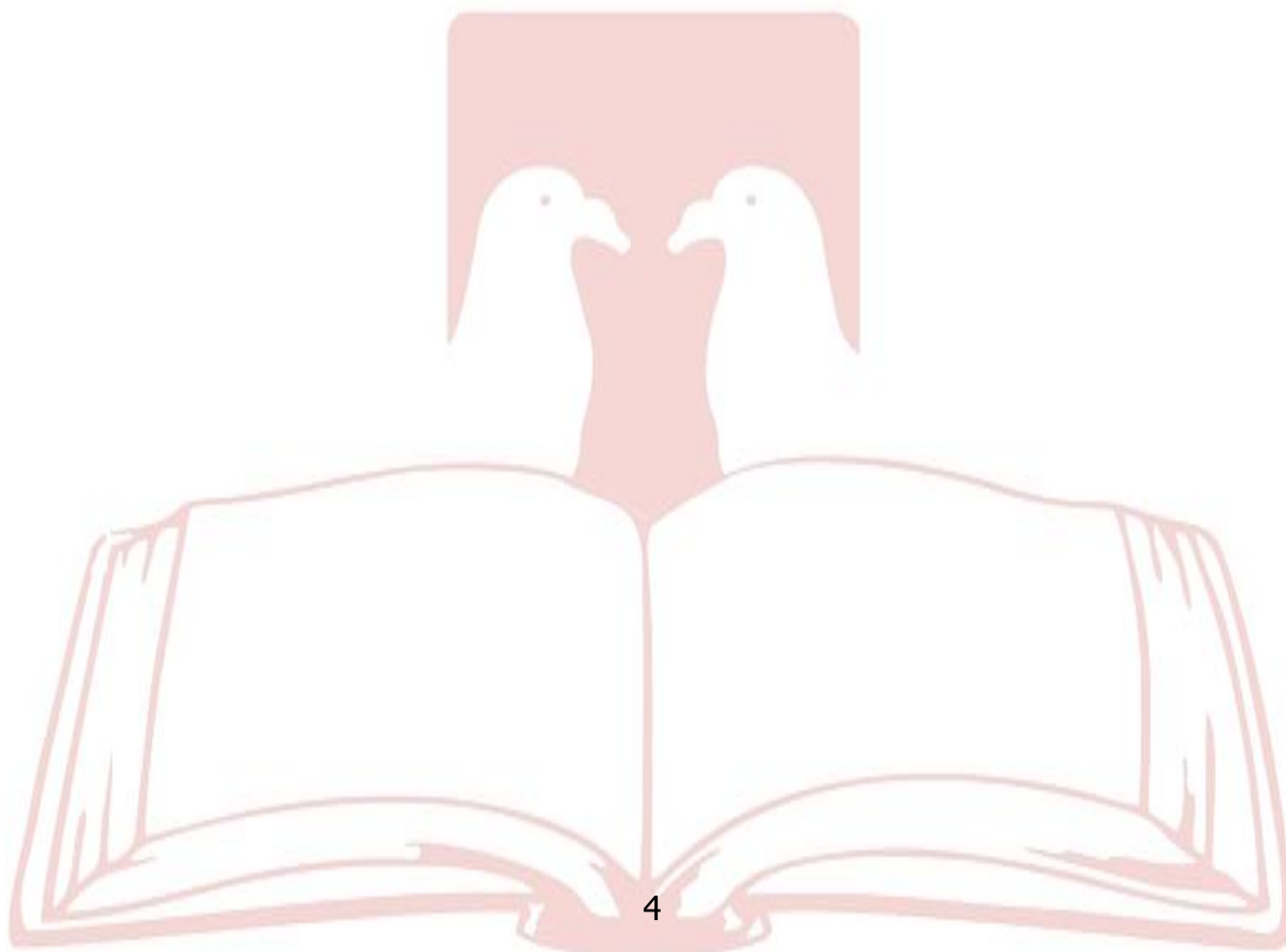
Civil Procedure Code, 1908, Or. 7 Rr. 10 & 11 and Or. 7 R. 13 -

Applications both under Or. 7 R. 10 for return of plaint, and, for rejection of plaint under Or. 7 R. 11 - Proper mode of disposal of - Effect of allowing application under Or. 7 R. 11 - Principles clarified - Both such applications, held, cannot be simultaneously allowed, as that would amount to a contradiction - Only one of the two can be allowed.



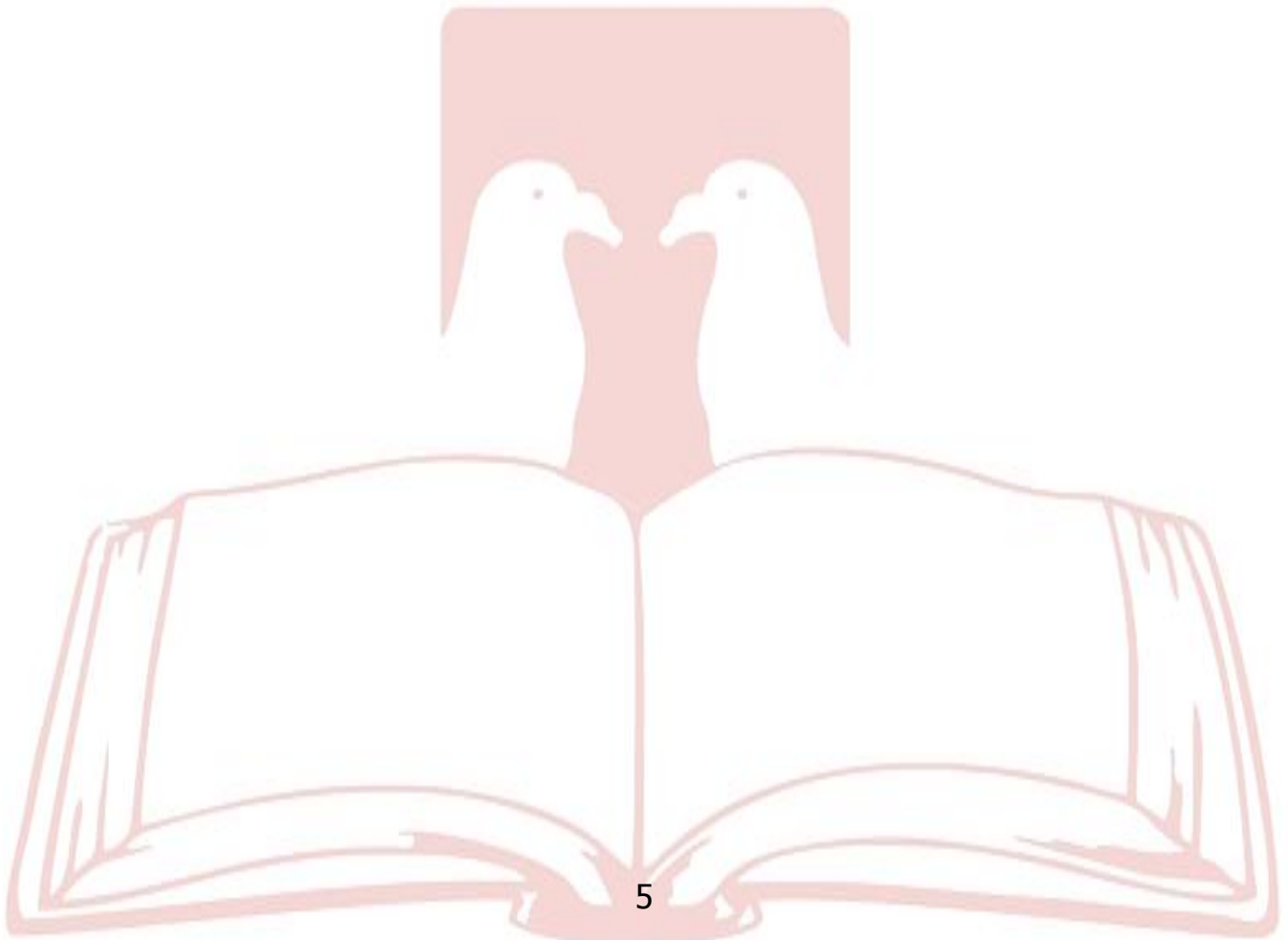
CST Vs. Quick Heal Technologies Ltd. [2023 (5) SCC 469]**Date of Judgment : 05.08.2022**

Construction/Interpretation of Contract - Intention of parties To be inferred from meaning of the words used in the contract - There is no intention of the parties independent of that meaning - Furthermore, where the words of a contract are capable of two meanings, one of which is lawful and the other unlawful, the former construction should be preferred.



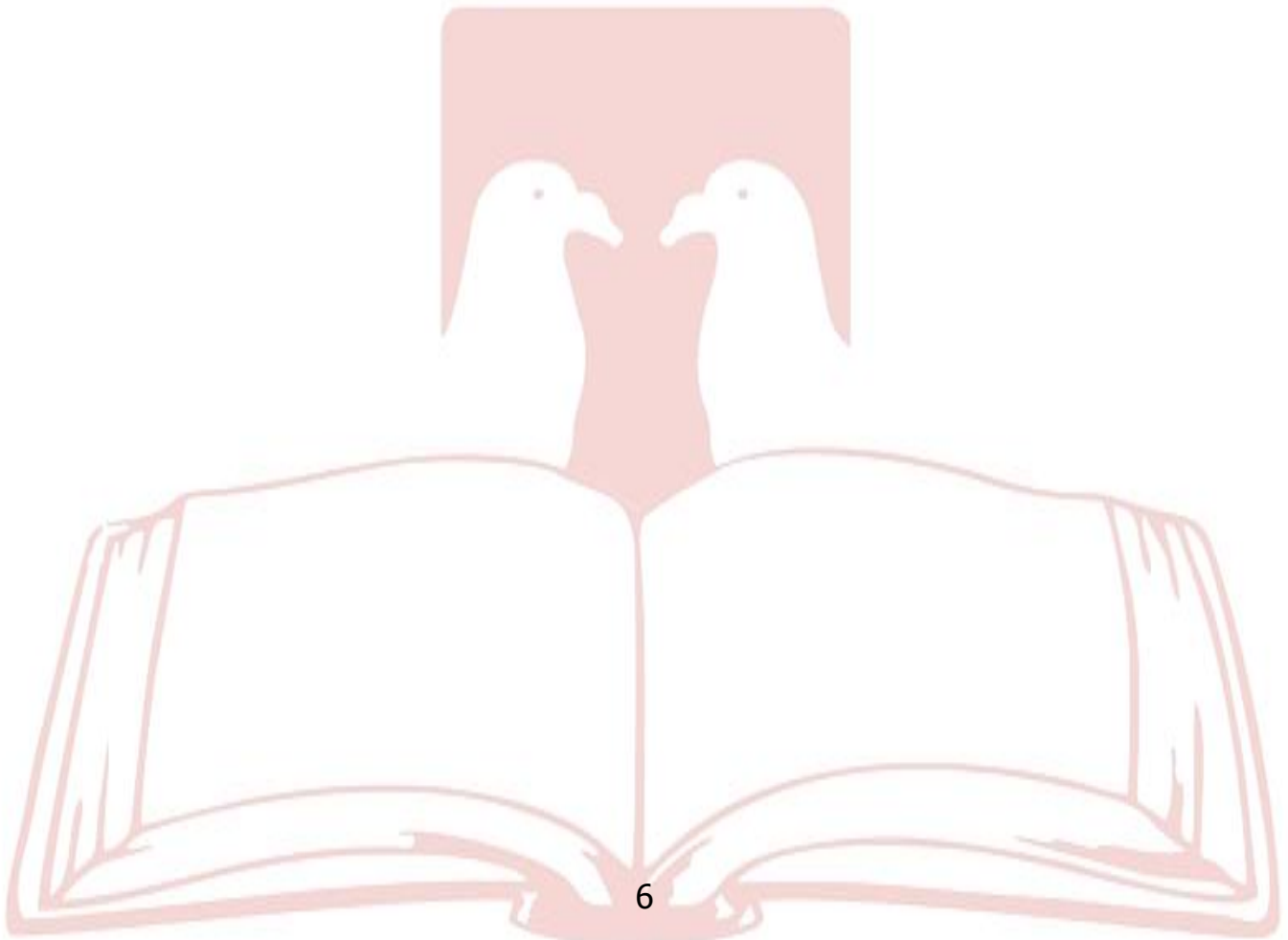
State (NCT of Delhi) Vs. Dayanand [2023 (5) SCC 381]**Date of Judgment : 13.03.2023**

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, Section 24(2) - Deemed lapse of acquisition proceedings-Grounds of non-payment of compensation and not taking over of possession - Whether made out - Where notice under Section 12(2) of the 1894 Act is issued to landowner and owner fails to come to collect compensation, held, subsequently it is not open for such owner to allege that compensation was not paid - Furthermore, held, where possession of major part of acquired land is taken and only minor part could not be taken due to built-up area, such situation cannot be treated as failure to take possession.



SUPREME COURT – CRIMINAL CASES**[Ravasaheb Vs. State of Karnataka \[2023 \(5\) SCC 391\]](#)****Date of Judgment: 16.03.2023****Circumstantial evidence – Last seen theory –Evidence Act, 1872,**

Section 106 – Explanation on part of accused - Held, becomes necessary when the last seen theory is coupled with other factors such as when the deceased was last seen with the accused, proximity of time to the recovery of the body of the deceased, etc. - In such a situation, if the accused does not do so, or furnishes a wrong explanation or if a motive is established, pleading securely to the conviction of the accused closing out the possibility of any other hypothesis, then a conviction can be based thereon.



State Vs. T.Gangi Reddy [2023 (2) SCC (Cri.) 241]

Date of Judgment: 16.01.2023

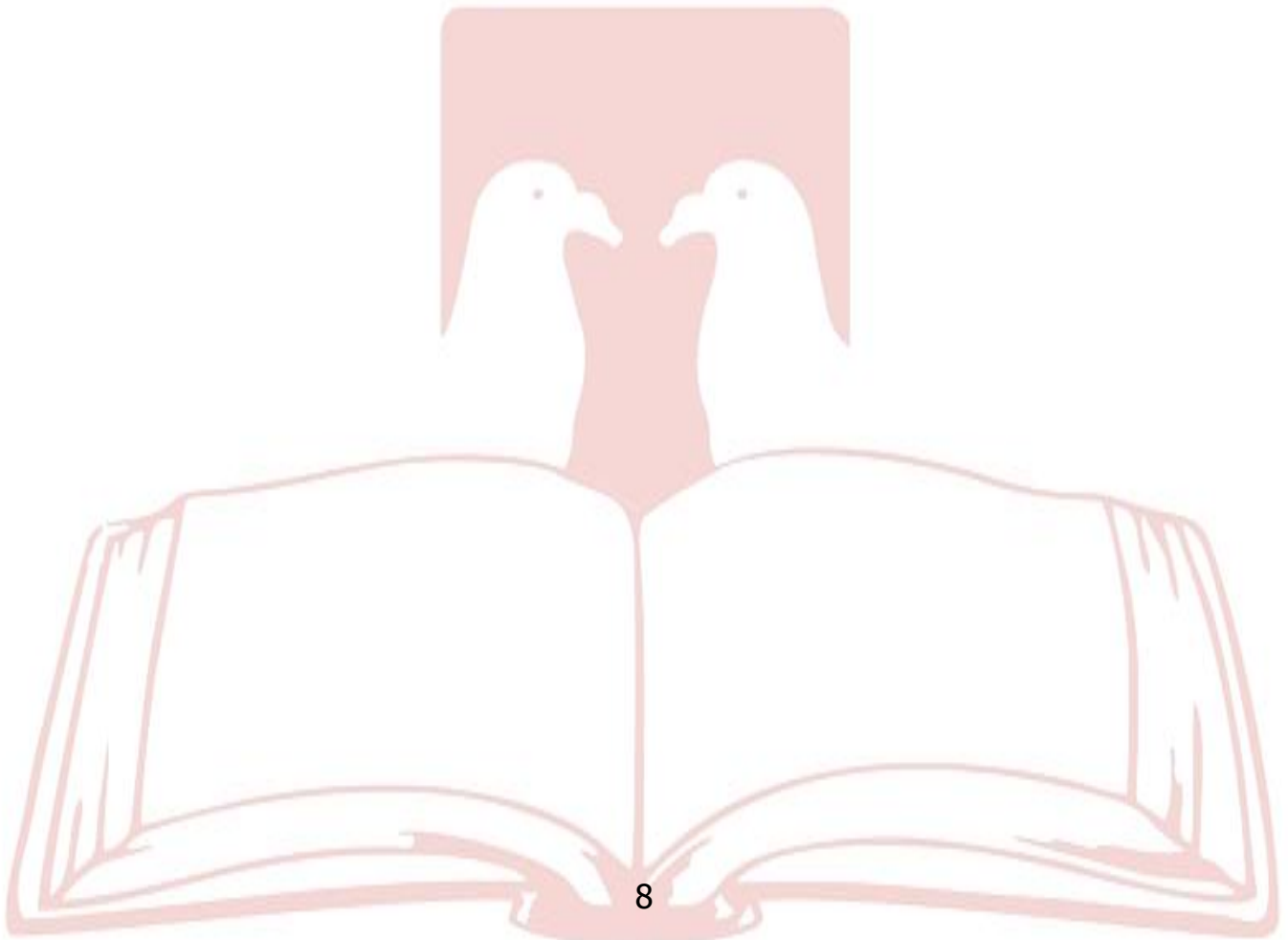
Default bail – Cancellation of, on merits after submission of charge-sheet – Principles clarified – Criminal Procedure Code, 1973 - Sections 167(2), 437(5) and 439(2) r/w Ch. XXXIII – Held, default bail is not granted on merits, but on the failure of the investigating agency in completing the investigation and filing the charge-sheet within prescribed period - Therefore, every person released on default bail, held, shall be deemed to be so released under the provisions of Ch. XXXIII Cr.P.C., which includes Sections 437(5) and 439(2) - Further, held, though order granting default bail cannot be cancelled on mere filing of the charge-sheet, but can be cancelled on making out a special and strong ground, i.e. disclosure of commission of non-bailable crime in the charge-sheet - Therefore, held, there is no absolute bar that once a person is released on default bail, his bail cannot be cancelled on merits and his bail can be cancelled on other general grounds like tampering with the evidence/witnesses, not cooperating with the investigating agency and/or not cooperating with trial court concerned, etc.

Neeraj Dutta Vs. State (NCT of Delhi) [2023 (2) SCC (Cr.) 352]

Date of Judgment: 15.12.2022

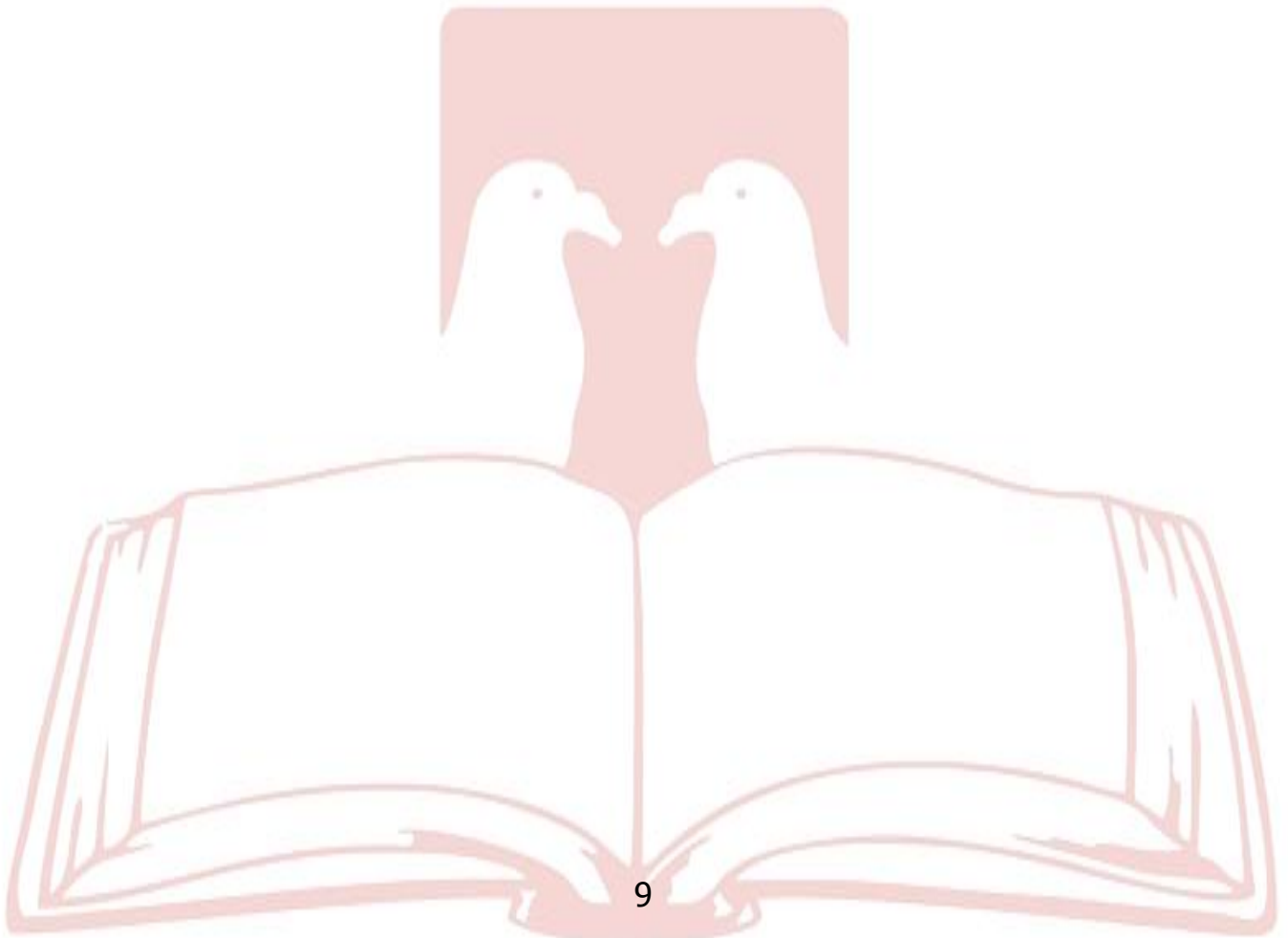
Illegal Gratification can be proved based on Circumstantial Evidence -

Prevention of Corruption Act, 1988, Section 20 – Presumption as to public servant accepting gratification other than legal remuneration - Direct evidence to prove requisite conditions for drawing such presumption, held, not necessary-The same can be raised based on other evidence/circumstantial evidence adduced by the prosecution - Presumption under Section 20 is a mandatory legal presumption, which is rebuttable - Distinction between Section 20 presumption and presumption under Section 114 of the Evidence Act, particularly with regard to the burden of proof on the accused to rebut either kind of presumption Explained.



Sebil Elanjimpally Vs. State of Odisha [2023 (2) MWN (Cr.) 330]**Date of Judgment: 18.05.2023**

Narcotic Drugs and Psychotropic Substances Act, 1985, Section 20(b)(ii)(c) – Code of Criminal Procedure, 1973, Section 439 – Bail – Grant of – Refusal – Non-surrendering of Co-Accused released on Bail – If, can be a ground not to entertain Bail Application – Fact that Co-Accused, who was released on Bail, failed to surrender, held, not germane to decline Bail to Appellant – Matter warrants reconsideration by High Court keeping in view fact that Charges already framed and 19 PWs proposed to be examined by state.



Sri Mahavir Agency Vs. State of West Bengal [2023 (2) MLJ (Cri.) 492]**Date of Judgment: 17.04.2023****Sale of Adulterated Article of Food by Vendor purchased from Manufacturer - Prevention of Food Adulteration Act, 1954, Sections 7, 16(1)(a)(i) and 19(2) – Prevention of Food Adulteration Rules, 1955, Rule 12A**

– Appellant convicted and sentenced to undergo rigorous imprisonment for offence under Section 16(1)(a)(i) read with Section 7 of Act by Senior Municipal Magistrate and same confirmed by High Court, hence this Appeal - Whether, conviction of Appellant for sale of adulterated food, justified - Held, Section 19(2)(a)(ii) of Act provided that a vendor shall not be deemed to have committed an offence pertaining to sale of any adulterated or misbranded article of food if he proved that he purchased article of food from any manufacturer, distributor or dealer with a written warranty in prescribed form - Accordingly, Appellant had valid defence in terms of Section 19(2) of Act as packed item sold by him namely 'pan parag' had written warranty in prescribed form from manufacturer - Appellant sold article of food after purchase from manufacturer through invoices which contained warranty as prescribed under Act and Rules - Appellant had protection available under Section 19(2)(a) of Act - Impugned judgment of High Court, set aside - Appeal allowed.

HIGH COURT - CIVIL CASES

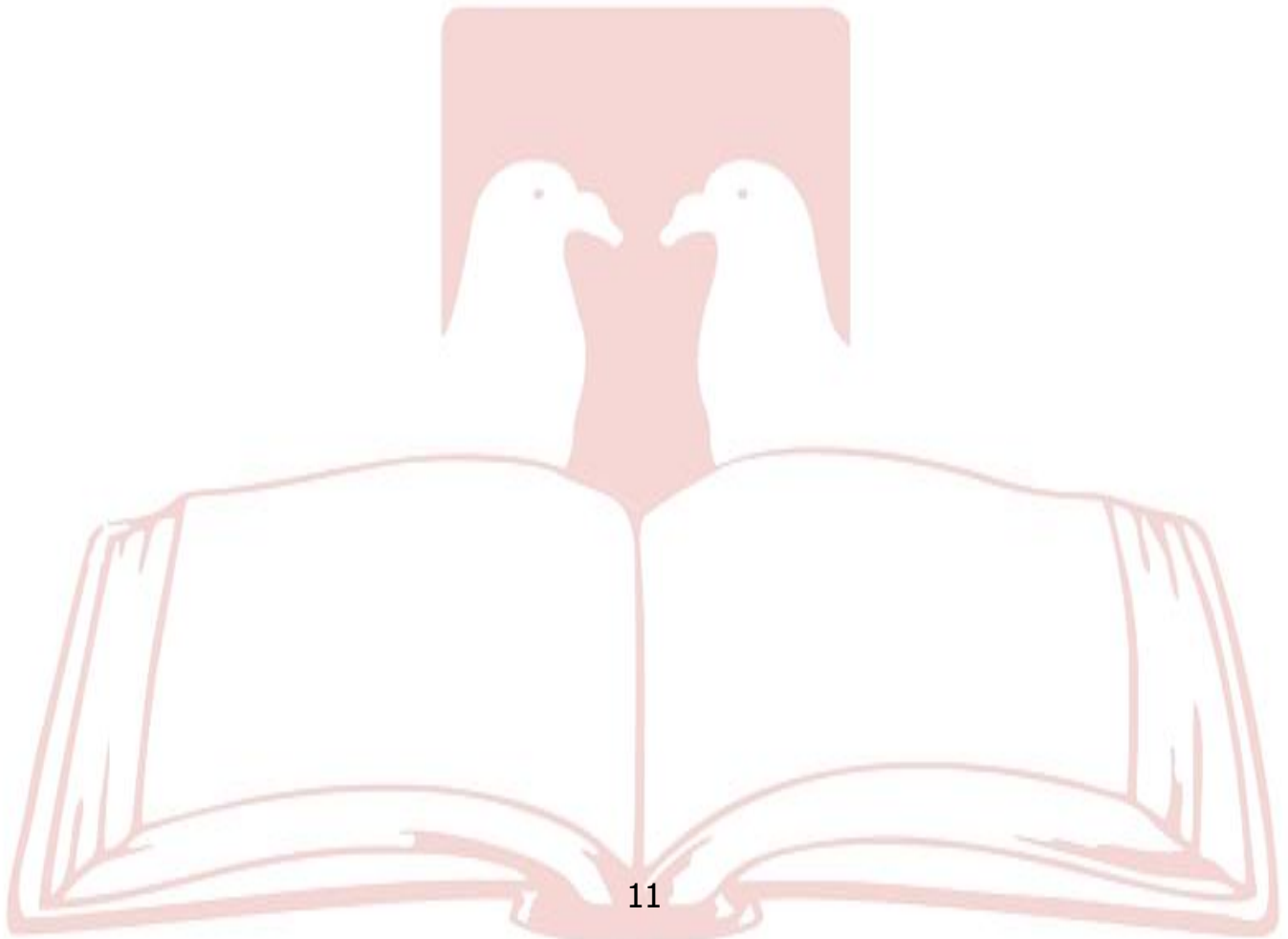
[Manivasagam Vs. Karmegam \[2023 \(2\) MWN \(Civil\) 437\]](#)

Date of Judgment: 09.06.2022

Whether two separate Appeals necessary against Suit and Counter-claim:

Tamil Nadu Court Fees and Suit Valuation Act, 1955 (T.N. Act 14 of 1955),

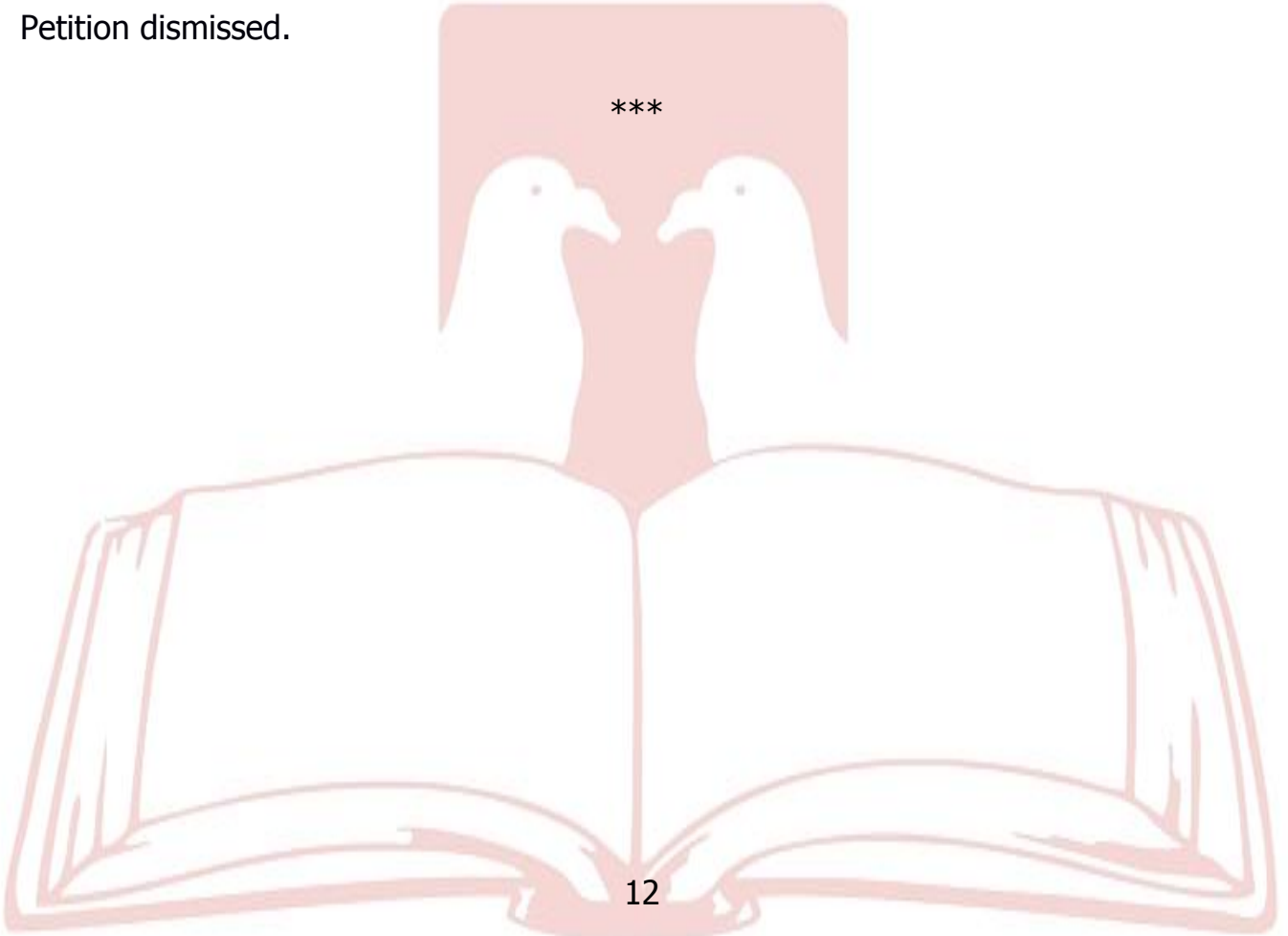
Section 52 – Appeal against Common Judgment dismissing Counter-claim and Decreeing Suit - Whether two separate Appeals ought to be filed - Held, when separate Court-fees paid for Appeal against Counter-claim and Suit, there is no necessity for separate Appeals.



Thanikachalam, S. Vs. M. Perumal [2023(3) CTC 636]

Date of Judgment: 31.01.2023

Documents cannot be rejected merely on ground of non-payment of Stamp Duty - STAMP ACT, 1899 (2 OF 1899), Sections 2(23) & 35(b) – Code of Civil Procedure, 1908 (5 of 1908), Section 151- Hand Receipts - Subsequently stamped - Whether permissible - Suit for Recovery of money - Hand Receipts though marked in evidence, Application to pay Stamp Duty on said Receipts filed at Trial stage - Application allowed - Instant Revision preferred by Defendant - Held, settled law that documents cannot be rejected merely on ground of non-payment of Stamp Duty - Non-payment of Stamp Duty only a curable defect and curation of same not to cause prejudice to any party - Party cannot be deprived from establishing its case on merit on account of technical defect - Moreover, issue of non-payment can be raised only by Court on its own motion or by Collector - Defendant not an Aggrieved Person within meaning of Section 61 to challenge non-payment of Stamp Duty - Order of Trial Court, upheld - Civil Revision Petition dismissed.



Prithviraj Vs. A. Muneeswaran [2023 (3) CTC 593]

Date of Judgment: 27.04.2023

Section 47 of the Registration Act can never be invoked in order to override the Doctrine of *Lispendens* under Section 52 of the Transfer of Property Act - Transfer of Property Act, 1882, Section 52 & Registration Act, 1908, Section 47 – Section 52 embodies Doctrine of Lis pendens vis-à-vis

any alienation during pendency of Suit is not permissible - Doctrine based on Principle of Equity and Good Conscience and to avoid multiple litigations and restrict encumbrance on property during pendency of litigation - On other hand, object of Section 47 of 1947 Act to transfer Title from Vendor to Purchaser from date of Execution - Stipulation in Section 47 that document operates from date of its Execution and not from date of Registration - Section 47, held, thus protects Private rights of parties - Section 52 of 1882 Act based on Public policy, good conscience, equity, held, cannot be overridden by Section 47, which deals with Private rights of parties.

Raja S. Vs. Hindustan Unilever Ltd., Tea Factory Man. [2023 (3) CTC 736 (DB)]

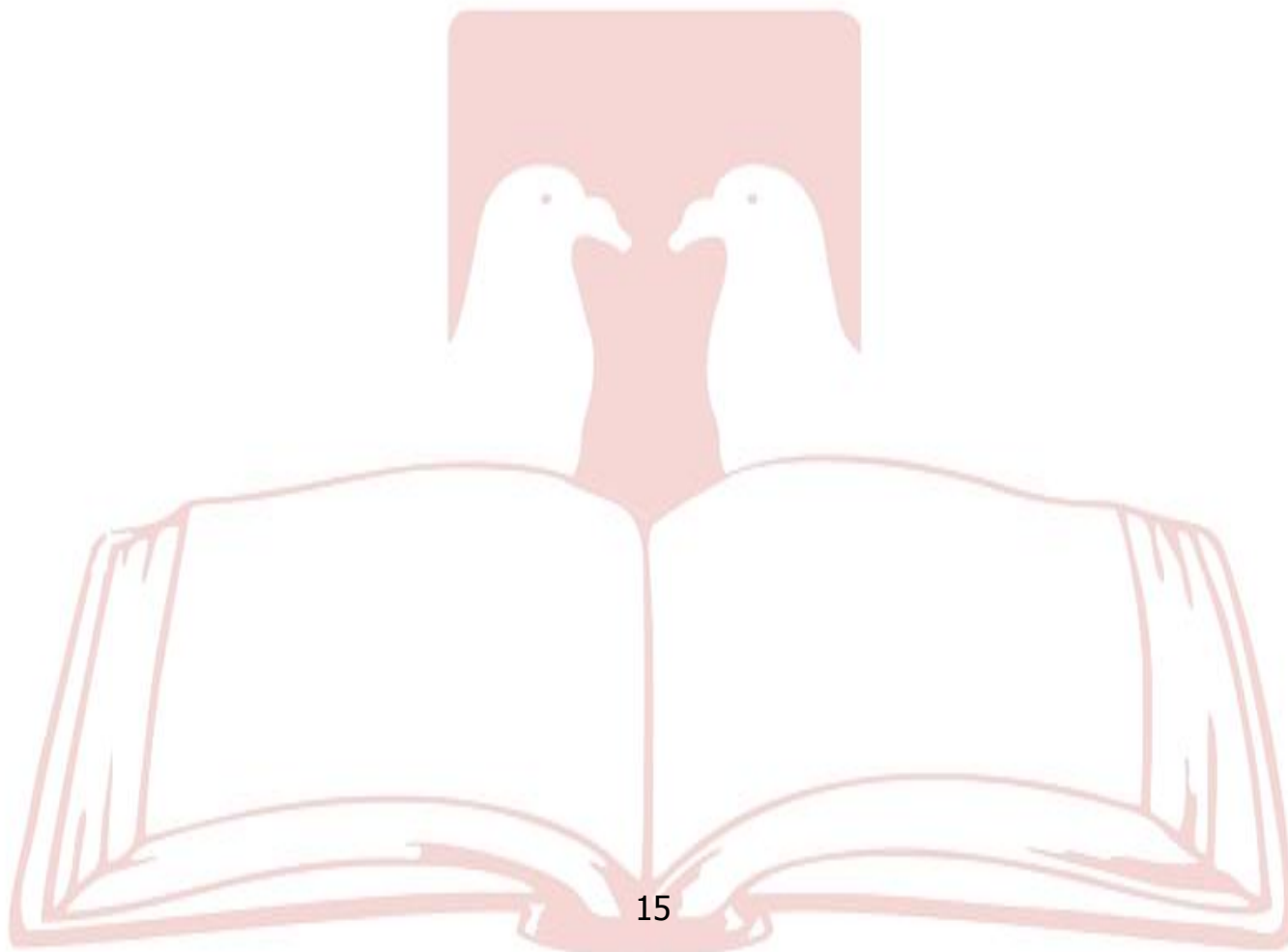
Date of Judgment : 25.05.2023

Misconduct - Usage of abusive language not serious to impose capital punishment of Dismissal from service - Industrial Disputes Act, 1947,

Section 11-A – Punishment - Whether disproportionate – Workman charged with misconduct of using unparliamentarily language against immediate superior and assaulting Executive by holding his shirt collar - Punishment of Dismissal from service - Held, usage of abusive language not serious to impose capital punishment of Dismissal from service - Moreover, fact that workman was punished in past also irrelevant as previous misconduct had taken place a decade ago - Punishment to be accorded considering Grade of Employee and also provocation that caused outburst - In facts and circumstances of case, Workman directed to be reinstated in service without Back Wages, however with continuity of service for purpose of Terminal benefits - Writ Appeal allowed.

Gopalasamy Jayaraman (died) Vs. Kothandaraman [2023 (3) CTC 753]**Date of Judgment : 24.02.2023**

"Joint Possession" - The phrase "joint possession" has to be interpreted viz-a-viz., exclusion from possession – "Joint Possession" - Interpretation and requisites - Suffice to show property is Joint Family property and right to Partition exists - Not necessary to be in actual possession of whole or part of property or receive income/share from property - Joint possession presumed, unless exclusion of possession is alleged and proved.



**Zonal Manager, Reliance Gen. Ins. Co. Ltd., Chennai Vs. Ezhilmathi [2023
(1) TN MAC 754 (DB)]**

Date of Judgment : 21.12.2022

Motor Accident Claim - Notional Income - Fixation of – Deceased working as Driver in Dubai - Tribunal fixing Notional Income at Rs.15,000 p.m. - If, excessive - Accident occurred in year 2018 - Even Minimum Wages payable to unskilled workers was more than Rs.15,000 p.m. during relevant period - Therefore, amount as fixed by Tribunal not excessive, but very low particularly when there is evidence to show that deceased earned more than Rs.35,000 p.m. - Notional Income as fixed by Tribunal, confirmed.

K.Chandrsekaran Vs. K.Shyamalamba (Died) & others [2023 (3) L.W. 58]**Date of Judgment : 28.04.2023**

Code of Civil Procedure, Order 21, Rule 97 – Locus standi of revision petitioner scope - Case is revision petitioner might be a purchaser of a part of the property from the descendants of the original lessor, but the right of enjoyment of the property is with the decree holders which is founded on a jural relationship - During the subsistence of the lease, lessor cannot interfere with the possession of the lessee - what applies to the lessor will apply without any variance or qualification to the purchasers of the lessor - Till the lease in favour of the decree holders subsists, neither the original lessor, nor the purchaser of the whole or part of the lease hold property can interfere.



C.Raja Vs. M.Sridevi @ Kalpana [2023 (3) L.W. 1]**Date of Judgment – 19.04.2023****Suit in Family Court for Permanent Injunction - Family courts Act, Section**

7 – Revision petition filed to dismiss the suit in family court for permanent injunction restraining petitioner-husband from alienating the suit property on the allegation that the intention of petitioner is to leave respondent-wife homeless and penniless - Whether maintainable - on reference - Held: relief of permanent injunction restraining husband from alienating the property does not fall within the jurisdiction of family court - If the suit does not fall under explanations [c] or [d] of section 7[1], the family court has no jurisdiction – If the proceedings before the family court suffers from lack of jurisdiction, a revision petition under Article 227 is maintainable – Family Court has no inherent Jurisdiction under Section 7, to entertain a suit by wife against husband for perpetual injunction restraining the husband from alienating the residential property of husband when the wife and husband were living together for some time - A revision petition is maintainable under Article 227 to strike off the plaint in such a suit.

**Asoka Service, Rep. by Partner, R.Muthukrishnan Vs. K.Palaniappan [2023
(3) L.W. 62]**

Date of Judgment:20.04.2023

Partnership Act, 1932, Section 69(2) and Specific Relief Act, Section 34 –

Whether the courts were justified in rejecting plaint on the ground that the firm created on 02.02.1978, being an unregistered one, any suit claiming reliefs, is barred - If a person seeks for declaration that he is a partner of a firm that is unregistered, whether the suit is hit by virtue of section 69(1) – In the present case under Order 7 rule 11, the court cannot look beyond the plaint and documents filed - It is a suit where the person is seeking for a declaration that the defendants are not partners to the firm - Difference between a third party to a firm and a person claiming to be a partner of a firm, when he is not - plaintiffs' relief is that they are partners of firm and the negative declaration that is sought for is that the defendants are not the partners of the said firm - Suit is not sought for mere declaration, but sought for further relief – Bar under proviso to Section 34 does not apply – Rejection of plaint that the Suit is barred by Section 69 is not proper – Suit is restored.

Sambavi S Vs. Balasundaram (Died) [2023 (2) MWN (Civil) 444]**Date of judgment : 08.12.2022****Whether Judgment-debtor can maintain Application under Order 21, Rule 89 without withdrawing Application filed earlier under Order 21, Rule 90 – Code of Civil Procedure, 1908 (5 of 1908), Order 21, Rules 89 & 90 –**

Both Rules provide different scenarios for setting aside Auction Sale - Under former Rule, sale can be set aside, if Judgment-debtor deposits entire Decree amount and also deposits 5% of Purchase money - Under later Rule, Application can be maintained, where Judgment-debtor seeks to set aside sale on ground of irregularity or fraud - Where Judgment-debtor has filed Application to set aside sale on ground of fraud, he cannot be allowed to prosecute Application under Rule 89, unless he withdraws earlier Application filed under Rule 90 - Procedure is handmaid of justice - Provisions should not be interpreted to such extent that it causes injustice to parties - Judgment-debtor has deposited entire Decree amount - He has also deposited 5% of Purchase money - No prejudice to either Decree-holder or Auction Purchaser, as they will receive whatever was due and payable to them - Mandate under Rule 89 only to ensure that Judgment-debtor does not ride two horses parallelly and attempt to prevent Decree-holder from getting fruits of Decree - Application under Rule 90 was also withdrawn - allowing Application filed by Judgment-debtor under Rule 89 for setting aside sale on deposit of Decree amount and 5% of Purchase money paid by Auction Purchaser, affirmed - Civil Revision Petitions dismissed.

HIGH COURT – CRIMINAL CASES

Sathish, P. @ Sathish Kumar Vs. State, rep. by Inspector of Police-Law & Order, H-4, Korukkupet Police Station, Chennai (DB) [2023 (3) CTC 645]

Date of Judgment : 13.03.2023

Code of Criminal Procedure, 1973, Sections 107 & 122(1)(b) - Violation of Bond under Section 107 – Whether Executive Magistrate empowered to order imprisonment under Section 122(1)(b) – No doubt, Section 107 vests power with Executive Magistrate to initiate proceedings, followed by passing of Preliminary Order under Section 111, enquiry under Section 116 and final Orders either under Section 117 or discharge under Section 118 – Final Order under Section 117 only involves taking of security by executing a Bond under Sections 107 to 110 – No interference to personal liberty at Section 117 stage – Proceedings under Section 122 separate and distinct – Breach of Bond executed under Section 107 pursuant to Order under Section 117 comes within net of provisions of Section 122(1)(b) which results in arrest and imprisonment – Section 122(1)(b) does not use expression "Executive Magistrate" but merely states "Magistrate" – As per Section 3(1)(a), where Code merely uses expression "Magistrate", same must be read, unless context otherwise requires, as referring to a Judicial Magistrate or a Metropolitan Magistrate as the case may be - Apex Court in *Gulam Abbas* clearly held that Executive Magistrate cannot punish for breach of Order passed by him – Whenever Parliament thought it fit to invest powers of detention on Executive Magistrate, it has expressly prescribed procedure - Section 167(2-A) which empowers Executive Magistrate to detain an Accused, expressly stipulates that such Executive Magistrate must be invested with powers of Judicial Magistrate or Metropolitan Magistrate for this purpose – Power to authorize detention involves deprivation of personal liberty, therefore, a function of Judicial/Metropolitan Magistrate – Therefore, *held*, Executive Magistrate cannot authorize arrest and detention under Section 122(1)(b) for breach of Bond under Section 107 – Person violating Bond under Section 107 to

be challenged or prosecuted before Judicial Magistrate for enquiry and punishment under Section 122(1)(b).

Sections 110, 122(1)(b) & 446 – Violation of Bond executed under Section 110 – Cannot be dealt with under Section 122(1)(b) – But, can be dealt with only under Section 446 – View taken in *Vadivel* that unless Section 110 read into Section 122(1)(b), breach of Bond under Section 110(e) cannot be dealt with effectively – Not a correct view – Breach of Bond under Section 110(e) would result in initiation of proceedings under Section 446 for forfeiture and recovery of sum covered by Bond – Form 49 prescribes Notice to Surety for forfeiture of Bond for good behaviour under Section 446 – Bond under Section 110(e), if held to be covered under Section 122(1)(b), procedure prescribed under Section 446 r/w form 49 would become otiose – View taken by Single Judge in *Vadivel* overruled – View taken by Single Judge in *Devi* affirmed.



**Mangalanatha Durai Vs. State through the Inspector of Police, Bazaar
Police Station, Ramanathapuram (DB) [2023 (2) MWN (Cr.) 287]**

Date of Judgment : 08.06.2023

Tamil Nadu Property (Prevention of Damage & Loss) Act, 1992, Sections

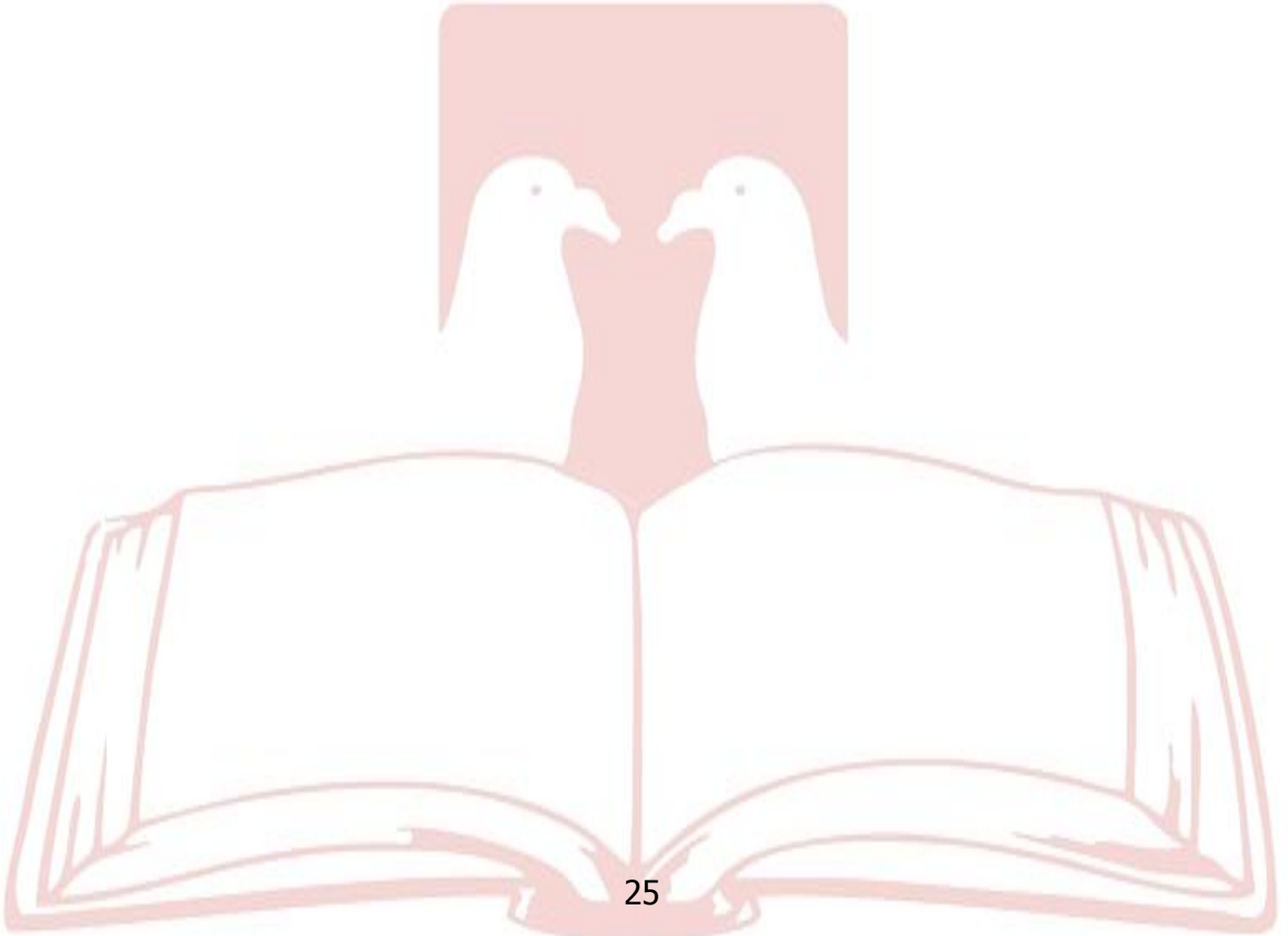
3 & 4 – Offence causing loss/damage to Private properties during Private dispute – If, can be investigated and tried under amended Act - Decisions of Single Judges in *Logu, Pavalavee, Bhuvaneshwaran, Annamalai and R. Vijayalakshmi* placing reliance on Statement of Objects & Reasons, holding that enactment would not take within its ambit ordinary mischief caused to Private property in fight between two individuals - Whereas decisions in *Venkatesan, Giri, Balu* and *R. Mookamayan* holding that *de hors* Statement of Objects & Reasons, on plain reading of enactment, mischief caused to Private property in Private dispute would constitute offence under Section 3 – Conflict between two sets of decisions leading to reference to Larger Bench – Whether resort to Statement of Objects & Reasons can be had for interpreting enactment – Language of enactment plain, simple and unambiguous – Sections 3 & 4 criminalise mischief caused to property in various situations – Some of situations set out in SOR alone cannot restrict meaning of actual words used in enactment – After 1994 Amendment, word "property" defined under Section 2(4) as property movable or immovable or machinery owned by or in possession of or under "control of any person" - Intendment of Legislature was to make Act applicable to Private property and criminalize damage caused to Private property - Charging provisions of Act being clear and unambiguous, taking recourse to SOR so as to give a restricted interpretation, *held*, not justified – Words used in SORs necessarily repel interpretation sought to be placed to hold that Act cannot be invoked in respect of damage caused to Private property in Private dispute - *Held*, Act applicable to cases of damage to Private property in Private dispute and offence can be investigated and tried under Act – Decisions in *Logu, Pavalayee, Bhuvaneshwaran* and *R. Vijayalakshmi* overruled.

Thangaraj Vs. State Inspector of Police [2023 (2) MLJ (CrI) 469]**Date of Judgment : 17.03.2023****Culpable Homicide Amounting to Murder – Appeal against Conviction –**

Indian Penal Code, 1860, Sections 304(i), 322 and 323 – Trial Court convicted Appellant-accused for offence under Section 304(i) of IPC and sentencing him to undergo three years rigorous imprisonment and to pay fine, hence this appeal - Whether, Appellant liable to be convicted for offence under Section 304(i) IPC and sentenced for same - Held, evidence of son of Appellant, explains manner in which incident had taken place and involvement of Appellant and no reason to discard this evidence – Appellant had kicked deceased when deceased attempted to prevent Appellant and questioned him on his attempt to take away his daughter – After Appellant kicked deceased, deceased fell on grinding stone and had sustained injuries – Act of Appellant would not constitute culpable homicide – Post-mortem doctor had opined that blunt injuries sustained by deceased and related complications was reason for death of deceased – That apart, deceased died nearly after seven days after incident – Act of Appellant had caused bodily pain to deceased - Both conviction and sentence stands modified – Appellant convicted for offence under Section 322 punishable under Section 323 IPC and imprisonment confined to period already undergone – Appeal partly allowed.

Saravanan Vs. State [2023 (2) MLJ (CrI) 561]**Date of Judgment : 17.03.2023****Investigation Process - Production of General Diary - Code of Criminal Procedure, 1973, Section 91(1) - Indian Penal Code, 1860, Section 302 –**

Petition filed by Petitioners for production of General Diary of police station to verify date of first FIR registered for offence under Section 302 of IPC, rejected, hence this petition – Whether, order for production of General Diary be issued – *Held*, General Diary records all important transactions, events that take place in police station - Gist and substance of each FIR being registered in police station, also mentioned in General Diary, therefore, General Diary could not be equated with Case Diary – General Diary was referred as a public document in hundreds of reported decisions Production of General Diary was necessary to establish date of FIR registered – Order passed by Trial Court, set aside – Respondent directed to produce attested true copy of General Diary – Petition allowed.



**Selvam Vs. Inspector of Police, Virudhunagar West Police Station,
Virudhunagar District [2023 (2) MWN (Cr.) 314]**

Date of Judgment : 20.01.2023

Code of Criminal Procedure, 1973, Sections 195 & 482, Indian Penal Code, 1860, Section 143 & 188 – Conduct of demonstration without prior permission of Police - Prosecution for offence under Sections 143 & 188 – Maintainability – Taking of cognizance of offence under Section 188 barred by Section 195, Cr.P.C. except in Complaint in writing by competent Public servant – Complaint, in instant case, not filed by competent Public servant – Applying decision in *Vijay, held*, Final Report filed for offence under Section 188, liable to be quashed – Nothing on record as to how demonstration conducted by Petitioners to condemn shortage of goods in Fair Price Shop was unlawful protest – Protest, being a democratic right as rightly contended by Petitioners, would not constitute offence under Section 143 - Requirements of Section 143 not satisfied by prosecution – Proceedings, *held*, liable to be quashed.

**Ramamurthy Vs. Inspector of Police, CBCID, Krishnagiri [2023 (2) MLJ
(Cri.) 566]**

Date of Judgment : 07.03.2023

**Supply of Documents – Entitlement to Translated Version – Not Entitled–
Code of Criminal Procedure, 1973, Section 207 and 482** – Petition filed for supplying copies of documents in Telugu language dismissed by trial Court, hence this petition – Whether Petitioner entitled for copies of documents supplied to him under section 207 in Telugu language, which was his mother tongue, on ground that he did not know how to read or write Tamil – *Held*, Section 207 requires Magistrate to supply, free of cost, copy of police report and other documents - If any document was voluminous, Magistrate shall direct accused to inspect document either personally or through pleader in Court – No right provided to accused to demand translated copy of document in language other than language in which documents were produced in Court – If accused belonging to various States speaking various languages tried in particular case, it was not possible to furnish copies of documents relied by prosecution under Section 207 in their respective mother tongue – Some accused were literate and some were illiterate – Almost and always accused were defended by Advocate – Advocates know both languages spoken in State and they assist accused in understanding case of prosecution, statement of witnesses and other necessary details concerning case – Then accused give suitable instructions to Advocate for defending them – Accused not entitled to claim as matter of right translated version of copies furnished under Section 207 in mother tongue of accused – Petition dismissed.

**K.Kumaresan & Ors. Vs. State, rep. by the Inspector of Police, T-15, SRMC
Police Station, Porur [2023 (1) L.W. (Cri.) 904]**

Date of Judgment : 18.05.2023

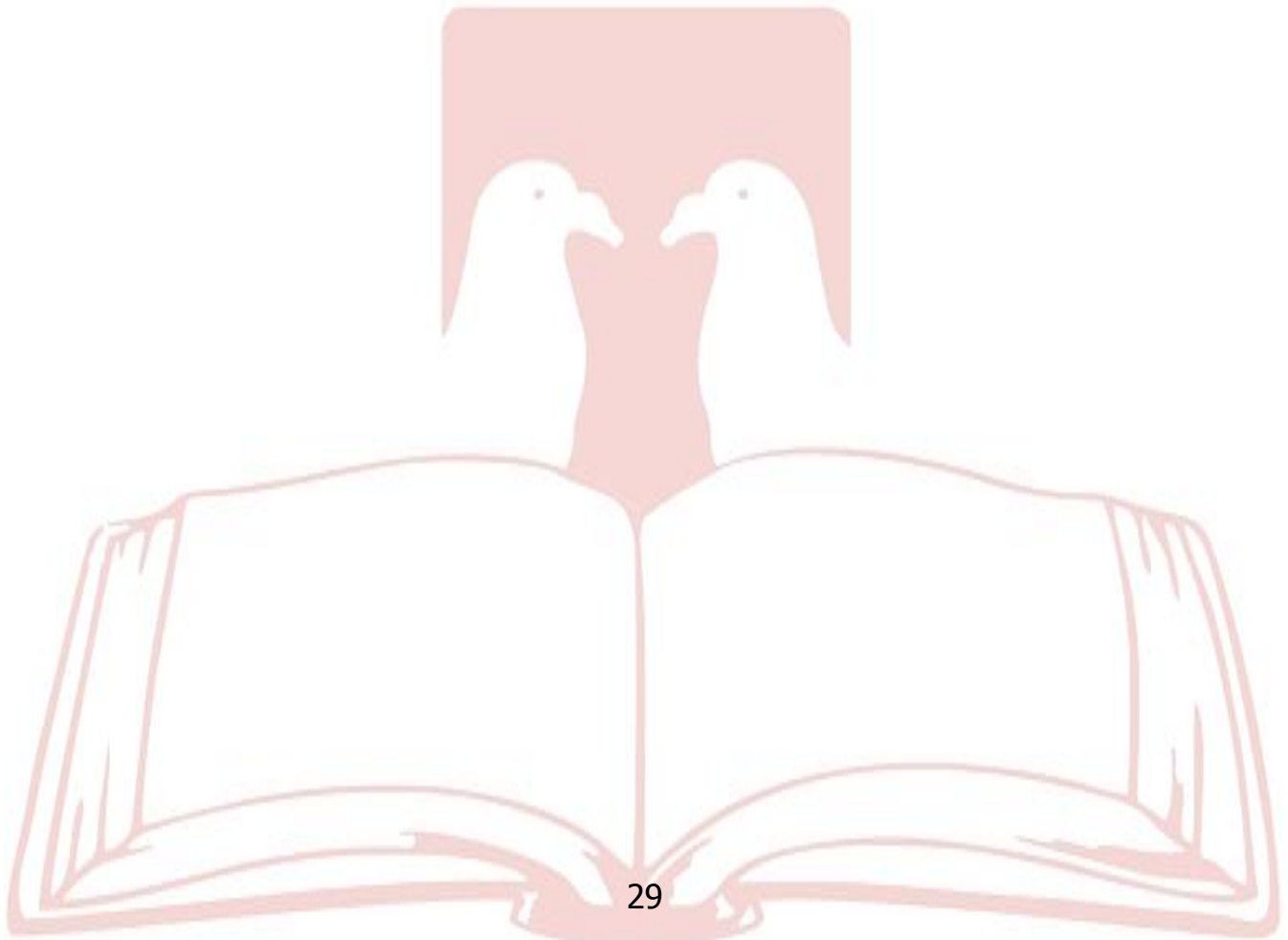
**Narcotic Drugs – Seizure – Mandatory Provisions to be complied -
Narcotic Drugs and Psychotropic Substances Act, 1985, Section 8(c) r/w.**

22, 28, 29, 42, 50 – Pw1-Sub Inspector had proceeded to the spot without written permission of his superior – Failure to record the reason to believe the information, illegality in causing common notice under section 50 and failure to explain the chain of custody regarding the contraband seized – Contraband seized on 17.12.2018 reached the court only on 24.12.2018 - presence of crime number in the packets containing the contraband alleged to have been sealed and labeled at the spot at about nearly 4 hours prior to registration of FIR – Recovery mahazar does not contain the signature of the accused to prove that they were recovered from the possession of the accused – Recovery mahazar does not have the facsimile of the seal alleged to have affixed by pw1 and recovery was after the notice under section 50 – Held: common notice to all the accused is bad in law and will vitiate trial being a violation of mandatory condition.

M.C.Baby Vs. M/s. Sastha Home Tech, rep. by its Partner, Mr.S.G.Konda Reddy, No.34, Spurtank Road, Chetpet, Chennai [2023 (1) L.W. (Crl.) 886]

Date of Judgment : 18.05.2023

Negotiable Instruments Act 1881, Section 138 - Complaint, by partner, without Authorisation - whether maintainable – Whether a complaint under section 138 by a partner of the firm without authorisation is maintainable - Held: unregistered partnership firm can initiate criminal prosecution through its partners, such complaint can sustain only if the representative of the firm proves the fact that he is authorised by the partners to lay the complaint – In the absence of such authorization, the complaint is bound to be dismissed – Complainant had neither placed partnership deed nor the authorisation from the partners to initiate the complaint.



**Saravanan Vs. State, rep. by the Deputy Superintendent of Police,
Pennagaram Police Station, Dharmapuri District [2023 (1) L.W. (Cr.)
917]**

Date of Judgment : 26.04.2023

Physical intercourse on Promise to Marry- Indian Penal Code, Sections 417 & 376 - Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act (1989), Section 3(1) (xii) – Whether prosecutrix pw1 was reasonably under a misconception of the fact that accused was genuinely intending to marry her had physical intercourse and accused only on such misconception created by him, victim consented to the act - Held: act was consensual in nature, amounted to consent under section 90 – Offence under section 376 not made out – No evidence as to whether at the earliest point of time when they started having physical relationship, a promise was made – If so, whether the promise was knowingly as a false promise or a promise which could not be kept at a later point of time - Section 417 unsustainable – It cannot be concluded that the accused was in a position to dominate the will of the prosecutrix and that he used his position to exploit her sexually – Finding of guilt in respect of section 3(1) (xii) unsustainable.

**Yuvaraj Vs. State, rep. by Additional Superintendent of Police, CBCID,
Namakkal District (DB) [2023 (2) MWN (Cr.)161]**

Date of Judgment : 02.06.2023

Electronic Evidence – CCTV Footage – Evidentiary value of - Indian Evidence Act, 1872, Sections 3 & 65-B – CCTV Footage not only helps to establish presence of Accused in place of occurrence but also taken on par with ocular evidence – Carries great evidentiary value – Provision of Section 65-B must be followed to adduce such evidence – Checklist for acquisition of CCTV Footage - Authentication of CCTV Footage through Forensic evidence - Standard operating procedure to be followed – Concept of hash value insisted at four stages – Hash value must be same at on all four stages to ensure authenticity – After completion of examination by Forensic Analyst, footage can be downloaded to a DVD/CD and same Hash value will be reflected - Extraction from Hard Disk to DVD/CD makes DVD/CD secondary evidence - Section 65-B-Certificate, therefore, must be accompanied - Copies taken and given to Accused under Section 207, Cr.P.C. must also be accompanied with Section 65 – Certificate - Procedure as laid down must be followed by Investigating Officer – Significance of slack space/subcutaneous memory in Hard Disk – Discussed.
