



WEB COPY



1

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : **03.07.2025**

CORAM

THE HONOURABLE **MR. JUSTICE C.V.KARTHIKEYAN**

S.A.No. 707 of 2010

1. The Junior Engineer
(Operation and Maintenance)
Tamil Nadu Electricity Board
Kariyapattinam, Vedaraniyam Taluk
2. The Assistant Executive Engineer
(Operation and Maintenance)
Tamil Nadu Electricity Board
Vedaraniyam, Nagapattinam District.
3. The Executive Engineer,
(Operation and Maintenance)
Tamil Nadu Electricity Board
Nagapattinam, Nagapattinam District.

... Defendants/Appellants/Appellants

Vs.

1. Ganesan (died)
2. Kunjammal
3. Kanthasamy
4. Subramaniyan
5. Selvanathan
6. Dhanabalan

... Plaintiff/Respondent/Respondent

... Respondents/Respondents/Respondents



PRAYER: This Second Appeal is filed under Section 100 of Civil Procedure Code, against the Judgment and Decree dated 15.09.2006 made in A.S.No. 35 of 2006 on the file of Sub-Court, Nagapattinam, confirming the Judgment and Decree dated 12.12.2005 made in O.S.No. 64 of 2022 on the file of the District Munsif Court at Nagapattinam.

For Appellants : Mrs. J.Hemalatha Gajapathy
Standing Counsel

For 1st Respondent : Died

For RR 2 to 6 : Mr. A.Sundaravathanan

JUDGMENT

The defendants, who could be collectively called the Tamil Nadu Electricity Board at Nagapattinam, in O.S.No. 64 of 2002 on the file of the District Munsif Court at Nagapattinam are the appellants herein.

2. The respondent, who had died pending the Second Appeal and whose legal representatives are brought on record, had filed the suit seeking a direction against the appellants herein/defendants in the nature of mandatory injunction to remove the electric poles which had been put up



WEB COPY

in the lands of the appellants and the high tension wires which has been struck across it and also for damages for a sum of Rs.10,000/- for cutting away the mango trees in the lands of the plaintiffs/respondents and for costs of the suit. The suit schedule property was described as vacant land at Sembodai Village, Vedaranyam Taluk in Nagapattinam District.

3. In the written statement filed by the appellants before the trial Court, it had been contended that there was objection was never raised on behalf of the respondents/plaintiffs at the time when the electric poles were put up and which actually had been put up in the year 1972 itself. It had been further stated that the wires have also been drawn even at that particular point of time. It had been further stated that the high tension wires were drawn in the year 1980. It had therefore been contended that the suit should be dismissed.

4. On appreciation of the pleadings and the evidence, the District Munsif Court at Nagapattinam, by Judgment dated 12.12.2005 had decreed the suit. The appellants had then filed A.S.No. 35 of 2006 before the Sub Court at Nagapattinam and by Judgment dated 15.09.2006, the Appeal Suit was also dismissed. The appellants have then filed the present Second Appeal.



WEB COPY 5. The Second Appeal had not yet been admitted. However, the learned Standing Counsel for the appellants/Electricity Board had forwarded to this Court a report of the Village Administrative Officer at Sembodai Village in Vedaranyam stating that the electric poles in the suit schedule lands had been uprooted during the Gaja cyclone and therefore, the appellants had taken a conscious decision to erect the electric poles in an alternate land and to draw the high tension wires through those poles. It is therefore contended that the grievance raised by the plaintiffs do not survive any more and there is no cause for the respondents/plaintiffs to maintain the reliefs sought in the suit.

6. This fact is also affirmed by the learned counsel for the respondents, who also contended that the electric poles have now been erected in an alternate land and the high tension wires have also been drawn and that the poles are not in the lands of the respondents/plaintiffs. Photographs to this effect have also been appended along with the report.

7. The sixth respondent / Dhanabalan, who had been subsequently impleaded owing to the death of the sole respondent, had also given a letter on 26.06.2025 confirming the above fact that the poles and the high



tension wires drawn do not affect either directly or indirectly the lands of the respondents. He had also enclosed photographs reflecting the same.

8. In view of this particular fact, since the Code also provides for the Court to examine issues on fact in a Second Appeal, recording this fact, the Second Appeal stands disposed of. No order as to costs.

Vsg

03.07.2025

Index :Yes/No

Internet:Yes/No

To

1. Sub-Court, Nagapattinam.
2. District Munsif Court at Nagapattinam.

C.V.KARTHIKEYAN, J.

vsg



WEB COPY



S.A.No. 707 of 2010

03.07.2025