

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

S.A.Nos.2019 of 1999 and 996 of 2000

A.Ramasamy ... Appellant in both the S.As.

Vs.

1.R.K.Balakrishnan ...1st Respondent in both the S.As.

2.The State of Tamilnadu
Rep. by District
Collector, Salem - 1.

3.The Superintending
Engineer, Highways,
(H & RW), Coimbatore
Circle, R.S.Puram,
Coimbatore.

4.The Division Engineer
Highways Rural Works,
Salem - 7.

5.The Commissioner,
Salem Municipality,
Salem - 7.

6.The Health Officer,
Salem Municipality,
Salem - 7.

... Respondents 2 to 6 in S.A.No.2019 of 1999

Common Prayer:

Second Appeals filed under Section 100 of C.P.C. against the judgment and decree dated 28.10.1999 in A.S.Nos.67 and 68 of 1999 respectively, on the file of the Principal District Judge, Salem, reversing the judgment and decree dated 30.11.1998 in O.S.Nos.222 of 1991 and 624 of 1989 respectively, on the file of the Second Additional District Munsif, Salem.

For Appellant : Mr.V.Srinivasan

For Respondents: Ms.V.Ambika for R1

Mr.G.Sankaran for R2 to r4

Special Government Pleader (CS)

No Appearance for R5 and R6

C O M M O N J U D G M E N T

The second appeal in S.A.No.996 of 2000 is arising out of O.S.No.624 of 1989 filed by the appellant for declaration and injunction seeking that the drainage constructed by the appellant cannot be disturbed by the defendant. The suit was decreed. As against that, an appeal was preferred before the lower Appellate Court. The lower Appellate Court reversed the findings. As against that, the present second appeal is filed.

2.The second appeal in S.A.No.2019 of 1999 is arising out of O.S.No.222 of 1991 filed for declaration and mandatory injunction for removal of the drainage which was constructed by the defendant therein and the appellant herein. The lower Court dismissed the suit. As against the said dismissal, an appeal was preferred and the appeal was allowed by the lower Appellate Court, as against which, the present second appeal is preferred by the defendant/ appellant.

3.Mr.G.Sankaran, learned counsel appearing on behalf of the Salem Corporation would submit that the issue involved in both the second appeal is with regard to the construction of a drainage in front of the appellant's residence. The said old drainage system was demolished and a new drainage was constructed under the new drainage system and the said new drainage will not affect any person arrayed as parties in the second appeals. To that effect, he has also filed a Memo on behalf of the Salem Corporation dated 11.01.2018 before this Court.

4.Recording the Memo filed on behalf of the Salem Corporation dated 11.01.2018, the second appeals are closed. Accordingly the suits filed by parties became infructuous and the order of lower appellate court in A.S.67/99 is hereby set aside. The Memo dated 11.01.2018 shall form part and parcel of the decree. No costs.

Enclosed: Xerox copy to the Annexure of Memorandum filed by the Salem Corporation dated 11.01.2018.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

1.The Principal District Judge, Salem.

2.The Second Additional District Munsif, Salem.

3.The Superintending
Engineer, Highways,
(H & RW), Coimbatore
Circle, R.S.Puram,
Coimbatore.

4.The Division Engineer
Highways Rural Works,
Salem - 7.

5.The Commissioner,
Salem Municipality,
Salem - 7.

6.The Health Officer,
Salem Municipality,
Salem - 7.

Copy to

The Section Officer,
VR Section,
High Court, Madras

+ 1 cc to Ms.V.Ambika Advocate,SR.2229

+ 1 cc to Mr.V.Srinivasan Advocate,SR.2926

S.A.Nos.2019 of 1999 and
996 of 2000

cnr(co)
nr 13/03/2018

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