



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.12.2018

Coram:

The Honourable Dr.Justice G.JAYACHANDRAN

Second Appeal No.1836 of 2004
& C.M.P.Nos.14452, 18552 of 2004
& C.M.P.No.2115 of 2005
& C.M.P.No.1210 of 2009

Marimuthu Gounder,
S/o.Nanni Gounder,
M.Kunnathur Village,
Ulundurpet Taluk,

... Appellant/Respondent/Plaintiff

Vs.

1. Kaliyaperumal,
S/o.Angamuthu,
M.Kunnathur Village,
Ulundurpet Taluk.

2. Chinnavandu,
S/o.Angamuthu,
M.Kunnathur Village,
Ulundurpet Taluk.

3. Kali,
S/o.Angamuthu,
M.Kunnathur Village,
Ulundurpet Taluk.

... Respondents/Appellant/Defendant

PRAYER: This Second Appeal has been filed under Section 100 of Civil Procedure Code, praying against the judgment and decree dated 27.02.2004 made in A.S.No.146 of 2003 on the file of the II Additional Subordinate Court, Villupuram reversing the judgment and decree dated 21.03.2001 made in O.s.No.810 of 1995 on the file of the II Additional District Munsif Court, Ulundurpet.

For Appellant : Mr.T.Dhanyakumar

For R3 : Mr.V.Raghavachari

For R1 & R2 : No Appearance

J U D G M E N T

Heard the learned counsel for the appellant.

2. The plaintiff is the appellant herein. The Trial Court has decreed the suit as prayed by granting relief of declaration and injunction in respect of suit schedule property. Also mandatory injunction to remove the wall and put in possession land measuring 32 feet x 06 meters (8 links) in the "B" schedule property. In appeal preferred by the first defendant the first appellate Court referring the Commissioner report has dismissed the appeal and confirmed the trial Court judgment with a clarification that the measurement of "B" schedule property as 0.32 feet East West and 1½ feet (60 cm) North South.

3. Aggrieved by the judgment of the first Appellate Court modifying the decree of the trial Court, the plaintiff has filed the Second Appeal.

4. This Court finds that the lower Appellate Court by using the word "modifying the decree" it has specified the actual measurement in encroachment of the defendant. There was no legal error in the judgment passed by the Appellate Court while dismissing the first Appeal and confirming the order of the trial Court. Nothing substantial in the questions of law framed in this Second Appeal. Accordingly, this Second Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

bsm

To,

1.The II Additional Subordinate Court, Villupuram

2.The II Additional District Munsif Court, Ulundurpet,
Villupuram District.

Copy to

The Section Officer

VR Section, High Court, Madras 104.

+1 CC to Mr.T.Dhanyakumar, Advocate sr 88815.
+1 CC to Mr.V.Raghavachari, Advocate sr 88611.

Second Appeal No.1836 of 2004

SSV(CO)
SP(22/02/2019)



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