

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.01.2019

Coram

The Hon'ble Mr. Justice C.V.KARTHIKEYAN

S.A.No.1471 of 1999

and

CMP.No.15900 of 1999

K.M.Natesan

...Appellant/Appellant/Plaintiff

Vs

- 1.Subramaniya Mudaliar (died)
- 2.Muthupalayanivel
- 3.Thangaraj
- 4.Murugesan
- 5.Shanmugam
- 6.Paranjothi
- 7.Chithambaram
- 8.Rajan
- 9.Janani
- 10.Kokila
- 11.Pankajam
- 12.Nagamani

...Respondents/Respondents/Defendants

(RR3 to 12 are brought on record as legal representatives of the deceased first respondent vide order of court dated 13.11.2006 made in CMP Nos.10347 to 10349 of 2006).

Prayer: The Second Appeal is filed under Section 100 of CPC, against the judgment and decree made in A.S.No.68 of 1998 dated 15.07.1999 on the file of the Subordinate Court, Gobichettipalayam, confirming the judgment and decree made in O.S.No.340 of 1994 dated 09.11.1998 on the file of the District Munsif Court, Gopichettipalayam.

For Appellant : Mr.R.Babu
For R1 : Died
For R2, RR4-8 : Mrs.R.Meenal
For R3, RR9-12 :Dismissed vide court order dated
25.04.2007

JUDGMENT

The plaintiff is the appellant herein. The plaintiff had filed O.S.No.340 of 1994, on the file of the District Munsif Court, Gopichettipalayam, seeking a permanent injunction restraining from putting up door on the Northern wall of the defendants property.

2.The further North of the defendants property is a lane which is evidenced by the Commissioner's report. After the lane, the plaintiff's property is situated. There is a finding by the Trial Court, that the lane is used in common by the plaintiff and the defendants. The plaintiff is aggrieved by the fact that the defendants put up door on his wall towards opening up to the lane.

3.A perusal of the sketch filed by the commissioner reveals that, already five windows over look the lane. Both the Courts below negated the case of the plaintiff, holding that the plaintiff has not established the title to the suit lane. It is also observed that the suit had been filed for bare injunction and not for declaration of title. The finding of the Trial Court, that both the plaintiff and the defendants are using the lane is alone reiterated.

4.Since no issue of law arises, the Second Appeal is dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

Sd/-
Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

smv

To

1.The District Munsif Court, Gopichettipalayam.

2.The Subordinate Court, Gopichettipalayam.

Copy To : The Section Officer, VR Section, Madras High Court.

+1cc to Mr.B.Kumarasamy, Advocate SR.No.6189

+1cc to Ms.R.Meenal, Advocate SR.No.5822

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PPA (CO)
GMY (03/06/2019)



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