

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2019

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

S.A.No.1193 of 1999
and
C.M.P.No.11973 of 1999

P.Senthilkumar

.. Appellant

..Versus..

1.Sakthivel
2.P.Thangavel Gounder
3.K.P.Thangavel
4.Rangaraju
5.The District Collector,
Perunthurai Road,
Erode - 638 011.
6.Lakshmi Ammal
7.Malarvizhi
8.R.Sumathy
9.Shanthi
10.Abirami

.. Respondents

Prayer: This Second Appeal has been filed under Section 100 of C.P.C., against the Judgment and Decree of the Learned Principal Subordinate Judge's Court, Erode dated 24.09.1998 made in A.S.No.188 of 1997 preferred against the Judgment and Decree of the Learned District Munsif cum Judicial Magistrate Court, Kodumudi dated 20.06.1997 made in O.S.No.46 of 1996.

For Appellant :: M/s.Sarvabhauman Associates

For R1 to R3 :: Mr.V.P.Sengottuvel

For R5 :: Mr.N.Manikandan,
Government Advocate.

JUDGMENT

The plaintiff is the appellant herein. The Suit was filed for declaration of the title and injunction. The Suit was filed with regard to a property which even according to the Judgment of the First Appellate Court is necessary for the Government for the expansion of road.

2. On the basis of the long usage, the plaintiff had sought declaration even though the property is a Poramboke Land. Both the Courts below had concurrently negated the claim of the plaintiff/appellant. It had been concurrently found that the claim of the plaintiff seeking declaration cannot be granted and on the other hand, on the basis of the report of the Advocate Commissioner also that the plaintiff had been using the land after encroaching the Vaikaal Poramboke along with the lands of the plaintiff on the south east portion.

3. In view of the concurrent findings, this Court is not able to grant any relief to the appellant as there is no point of law. However, the learned counsel for the appellant stated that the appellant may be permitted to approach the revenue authorities for appropriate relief. That option is always open to the appellant. Accordingly, the Second Appeal stands dismissed as rejected. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1. The District Munsif cum Judicial Magistrate Court, Kodumudi.
2. The Principal Subordinate Judge's Court, Erode.
3. The Section Officer, VR Section
Madras High Court.

+1cc to M/s. Sarvabhauman Associates, Advocate SR.No. 4473
+1cc to Mr. V.P. Sengottuvel, Advocate SR.No. 4365
+1 CC TO GOVERNMENT PLEADER SR.NO. 4280

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A.SK(19/02/2019)