



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2019

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

S.A.No.735 of 2009

Krishnaveniammal

...Appellant/Appellant/Plaintiff

Vs

1.Subramaniyan

2.Jagadeesan

3.Loganathan

...1 to 3 Respondents/Defendants

4.The District Collector

Villupuram District

Villupuram.

5.The Sub Collector

Tindivanam Revenue Sub Division

Jakkampettai

Tindivanam

6.The Tahsildar

Taluk Office

Gingee

..4 to 6 Respondents/Respondents
Defendants

Prayer :- Second Appeal filed under Section 100 of CPC, against the judgment and decree made in A.S.No.12 of 2008 dated 24.11.2008 on the file of the Subordinate Judge, Gingee, confirming the judgment and decree made in O.S.No.357 of 1998 dated 29.09.2005 on the file of the Additional District Munsif, Gingee.

For Appellant : Mr.P.Dinesh Kumar

for Mr.D.Ravichander

For Respondents : Mr.R.Sunil Kumar [R1 to R3]

Mr.N.Manikandan

Govt. Advocate (CS) [R4 to R6]



JUDGMENT

The plaintiff who was partially successful before the trial Court but lost the suit entirely before the first appellate Court, has come forward in this appeal. Parties would be referred to by their rank before the trial Court.

2. The plaintiff has laid a suit seeking permanent injunction. The relief was directed against the defendants 1 to 3 that they shall not obstruct the pathway right over what is classified as 'battai' (cart-track) poromboke. This relates to the first item of the property in the suit, in Survey No.149. The second relief is directed against the defendants 4 to 6, all of who are the Revenue Officials of the State that they shall not mutate the revenue records as concerning the second item of property in Survey No.470/1. This property is classified as poromboke dry waste.

3.1 The trial Court has granted a decree partially in favour of the plaintiff as regards injunction against the defendants 1 to 3, but dismissed the same as concerning the second relief sought against the defendants 3 to 6. Challenging the said decree, the plaintiff preferred A.S.No.12/2008 as concerning the relief 'B' and as regards the decree suffered by them, defendants 1 to 3 had preferred A.S.No.152 of 2005.

3.2. Both the appeals came to be decided by a common judgment by the first appellate Court. It allowed A.S.No.152 of 2005 preferred by the defendants 1 to 3, and dismissed the plaintiff's appeal in A.S.No.12 of 2008. In substance, the suit was dismissed in entirety by the first appellate Court. Challenging the same, the plaintiff has preferred twin appeals (S.A.No.735 of 2009 & S.A.No.734 of 2009) before this Court.

4. Both the second appeals are yet to be admitted. However, today this Court has taken up S.A.No.735 of 2009 alone for disposal.

5.1 The plaintiff has come forward with a categorical case that the item No.1 is a poromboke cart-track in Survey No.149 of Alampoondi Village, Gingee Taluk and that the defendants 1 to 3 are obstructing it. This is the subject matter of S.A.734/2009. So far as the second relief is concerned, the plaintiff's cause of action is founded on a compliant to the officials regarding grant patta for a certain portion of property in Survey No.470/1.



5.2 So far as the prayer of the plaintiff against the defendants 4 to 6, which is the subject matter in S.A.No.735 of 2009, this Court is in agreement with the reasoning of the Courts below and does not find any merit. Therefore, this second appeal is dismissed and the judgment and decree made in A.S.No.12 of 2008 dated 24.11.2008 on the file of the Subordinate Judge, Gingee, is hereby confirmed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To:

- 1.The Subordinate Court
Gingee.
- 2.The Additional District Munsif Court
Gingee.
- 3.The District Collector
Villupuram District
Villupuram.
- 4.The Sub Collector
Tindivanam Revenue Sub Division
Jakkampettai
Tindivanam
- 5.The Tahsildar
Taluk Office
Gingee
6. The Section Officer
VR Section
High Court, Madras.

+1 cc to Special Government Pleader (CS) sr50819
+1 cc to Mr.d.Ravichander Advocate sr50454

S.A.No.735 of 2009

aa14/11/2019