

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2020

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

S.A.No.393 of 2010

and

M.P.No.1 of 2010

P.Arumuga Udayar

Represented by his Power Agent

Mr.Periyasamy

... Appellant/Appellant/Plaintiff

/versus/

1.Muthusamy

2.Tamil Nadu Electricity Board,
by its Superintending Engineer,
Mettur, Salem District.

3.Tamil Nadu Electricity Board,
by its Executive Engineer, (O & M),
Co-operative Colony, Mohanur Road,
Namakkal.

4.Tamil Nadu Electricity Board,
by its Assistant Engineer (O & M),
Valayapatty, Namakkal Taluk,
Namakkal District.

5.Tamil Nadu Electricity Board,
by its Assistant Engineer (O & M),
Pudupatty, Namakkal Taluk,
Namakkal District.

... Respondents

Prayer: Second Appeal is filed under Section 100 of Civil Procedure Code, praying against the Decree and Judgment dated 31.12.2009 in A.S.No.190 of 2006 on the file of the Sub Judge, Namakkal confirming the judgment and decree dated 01.12.2006 in O.S.No.237 of 2006 on the file of Principal District Munsif, Namakkal.

For Appellant : M/s.S.Kalyanaraman

For Respondents : Mr.T.Dhanyakumar for R1
No appearance for R2 to R5

J U D G M E N T

(The case has been heard through video conference)

This Second Appeal is filed against the concurrent findings of the Courts below in a suit for permanent injunction.

2. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the 1st respondent.

3. The brief facts of the case is that the appellant herein has initiated the suit for permanent injunction being aggrieved by the attempt of the respondents herein to get a service connection to the well jointly held by the plaintiff and the defendants without the consent of the co-owner.

4. The same was contested by the respondents herein and both the Courts below have held against the appellant herein on the ground that the parties are joint-owners of the well and entitled for common enjoyment of the well. Therefore, the plaintiff cannot interfere with the purposeful enjoyment of the defendant who is a co-owner. The injunction suit is filed suppressing the joint ownership of the defendant.

5. It is brought to the notice of this Court that the 1st respondent who is the defendant in the suit is no more. Be that as it may, the relief of injunction sought by the plaintiff herein against the co-owner is per se unsustainable and more so, the right of drawing water by one of the co-owners cannot be indirectly prevented by the plaintiff by virtue of filing the suit. The Courts below considering the facts has rejected the appellant plea. This Court finds no merit in this appeal. Hence this Second Appeal is dismissed. Consequently, connected miscellaneous petition is also closed. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rpl

To

1. The Sub Judge,
Namakkal.
2. The Principal District Munsif,
Namakkal.
3. The Section Officer,
VR Section, High Court, Madras.

+1cc to Mr.S.Kalyanaraman, Advocate Sr.33240

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