



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

(Civil Appellate Jurisdiction)

Friday, the Thirteenth day of August Two Thousand Twenty One

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

SA(MD). No.40 of 2005

1. A.Navaretnam
2. D.Vijaya ... Appellants/Respondents/Defendants

Vs

1. A.Jesudos (Died)
2. J.Christy ...Respondent/Appellant/Plaintiff

(2nd Respondent is impleaded vide Court order dt. 04/08/2021)

...

Prayer:-

Second Appeal filed under Section 100 of C.P.C., against the Judgment and Decree of the I Additional Subordinate Judge, Nagercoil, dated 16.07.2004 made in Appeal Suit No.23 of 2004, reversing the Judgment and Decree of the court of the II Additional District Munsif, Nagercoil made in Original Suit No.122 of 1998 dated 18.09.2003.

DECREE:-

This Second Appeal coming on for hearing on this day, upon perusing the Grounds of Appeal, the Judgments and Decrees of the Lower Appellate Court and the Court of First Instance and the material papers in the Suit and upon hearing the arguments of Mr.T.LAJAPATHI ROY, Advocate for the Appellants and of Mr.P.THIYAGARAJAN, Advocate for the 2nd Respondent and **while recording the undertakings made by the Counsel for the Appellants that they will make arrangements to ensure that any water let out from their building would not fall on the Plaintiff's land and further that as and when the present construction is demolished and new construction is put up, no such projection over the plaintiff's land will be made, and this Court while allowing the Second Appeal, doth order and decree as follows:-**

(1) **That, the Judgment and Decree of the 1st Appellate Court**
<https://hcservices.ecourts.gov.in/hcservices/>



Viz., the I Additional Subordinate Judge, Nagercoil, dated 16.07.2004 made in Appeal Suit No.23 of 2004, be and hereby are set aside.

(2) that, the Judgment and Decree of the Lower Court Viz., the II Additional District Munsif, Nagercoil made in Original Suit No.122 of 1998 dated 18.09.2003, be and hereby restored and

(3) That, there be no costs in this Second Appeal.

Schedule of Property

District : Kanniyakumari
Taluk : Agasteeswaram
Village : Nagercoil
Sy.No : Re.Sy.No's E17/134, E17/135 and E17/137.
Extent : About 35 square feet.

Description: The area having about 35 Sq. Feet
shown as LMEFis the rough plan
attached to the plaint

Boundaries:

South : Property of defendants
North : Property of Plaintiff
East : Property of Plaintiff
West : Property of Plaintiff

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

TO

1) The I Additional Subordinate Judge, Nagercoil.

2) The II Additional District Munsif, Nagercoil.

Copy to:

The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court, Madurai - 2 Copies



+1 CC to M/s.P.THIAGARAJAN, Advocate (SR-26412[F] dated
16/08/2021)
+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-26484[F] dated
17/08/2021)

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ORDER DATED : 13/08/2021

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DECREE
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SA(MD) . No.40 of 2005

Nature of Decree:- Allowing the Second Appeal preferred against the judgment and decree of the I Additional Subordinate Judge, Nagercoil, dated 16.07.2004 made in Appeal Suit No.23 of 2004, reversing the Judgment and Decree of the court of the II Additional District Munsif, Nagercoil made in Original Suit No.122 of 1998 dated 18.09.2003 and etc., as stated within.

RD(28.03.2022) 3P 7C