



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**

S.A. (MD) .No.51 of 2016

and

C.M.P. (MD) No.1227 of 2016

A.Ravi ..Appellant/Appellant/3rd Defendant

Vs.

1.Samboornam ..1st Respondent/1st Respondent/1st Plaintiff

2.Jayamani ..2nd Respondent/2nd Respondent/2nd Plaintiff

3.Amirthavalli Ammal (Died)
..3rd Respondent/3rd Respondent/1st Defendant

4.Ramasamy

5.Karunanithi ..4 and 5th Respondent/5 and 6 Respondent/
4 and 5 Defendant

6.Sathiya Bama

7.R.Priya @ Balasaraswathi

8.A.Shanmugha Priya

9.Dinesh @ Senthilkumar ..6 to 9 Respondent/7 to 10 Respondent

10.V.K.Rajendran
(R10 has been impleaded vide order dated 14.11.2019 in CMP No.10622 of 2019 in SA(MD)No.51 of 2016)

11.T.Maragathavalli

12.K.Rajeswari

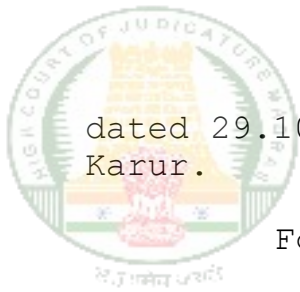
13.A.Shanthakumari

14.K.Geetha ...Respondents

(R11 to 14 are brought on record as LRs of deceased 3rd Respondent vide Court order dated 18/02/2020 in CMP 1794,1795,1797 of 2020)

PRAYER: Second Appeal filed under Section 100 of C.P.C., to set aside the judgment and decree passed in A.S.No.57 of 2012 on the file of the Principal Subordinate Court, Karur, dated 28.02.2014 confirming the judgment and decree passed in O.S.No.639 of 2005

<https://hcservices.ecourts.gov.in/hcservices/>



dated 29.10.2009 on the file of the Principal District Munsif Court, Karur.

For Appellants : Mr.V.Ayyadurai Senior Counsel for
Mr.V.Subramanian

For R1 & R2 : Mr.R.Vijayakumar for
Mr.P.Dhanasekaran

For R6 to R9 : Mr.N.Shanmugaselvam

For R10 : Mr.R.Bharanitharan

For R11 to R14 : Mr.S.Suresh Manickam

JUDGMENT

This appeal has been filed by the 3rd defendant in O.S.No.639 of 2005, aggrieved by the grant of decree for permanent injunction restraining alienation pending framing of proper scheme for administration of the Trust.

2.The respondents 1 and 2 herein claiming to be representing the villagers of Thirukkampuliyur, Karur District filed the above suit seeking the following prayer:-

"a) A decree for permanent injunction restraining the defendants, their men, agents, servants, subordinates or any behalf of them from creating any kind of encumbrances over the suit properties in any manner whatsoever till a scheme is certified regarding the same.

b) Awarding the costs of this suit to the plaintiffs and

c) Granting such other and further reliefs as this Court deems fit and proper in the nature and circumstances of the case."

3.The suit was also said to have been filed by the plaintiffs with leave under Section 92 of the Civil Procedure Code. The dispute relates to certain properties, which, according to the plaintiffs, were the properties owned by a public Trust.

4.The suit was resisted by the defendants contenting that the suit itself is not maintainable and that a suit under Section 92 of the Code of Civil Procedure cannot be entertained by the Court of the District Munsif. It was further contended that the properties belonged to a private Trust, therefore, a suit of this nature will not lie.

5.At trial, the 1st plaintiff was examined herself as P.W1 and the 3rd defendant was examined as D.W1. Exs.A1 to A8 were marked on the side of the plaintiffs and Exs.B1 to B4 were marked on the side



of the defendants.

6. Both the Courts below, on a wrong assumption that there could be a decree for permanent injunction, restraining alienation till happening of a certain event, decreed the suit as prayed for. Hence, the second appeal.

7. On 08.03.2021, I had framed the following questions of law in this appeal:

"i) Whether the suit for permanent injunction restraining alienation alone is maintainable without prayer either for declaration or for framing of a scheme?

ii) Whether a suit under Section 92 CPC is maintainable before the District Munsif's Court?"

8. I have heard Mr.V.Ayyadurai, learned Senior Counsel appearing for the appellant, Mr.R.Vijayakumar, learned counsel for Mr.P.Dhanasekaran, learned counsel for the respondents 1 and 2, Mr.N.Shanmugaselvam, learned counsel for the respondents 6 to 9, Mr.R.Bharanitharan, learned counsel for the 10th respondent and Mr.S.Suresh Manickam, learned counsel for the respondents 11 to 14.

9. The 1st question of law raised in this appeal is clearly covered by the judgment of Mine in **Umamaheswari Vs. Murugesan** reported in **2021 (2) CTC 167**, wherein, after considering the scope and ambit of Sections 38 and 41 (h) of the Specific Relief Act, 1963, I had held that a suit for bare injunction restraining alienation till happening of a certain event cannot be maintained, since it will be in violation of property right conferred under Article 300 (A) of the constitution of India.

10. In view of the above pronouncement, I don't think that any further examination is necessary in this appeal. This second appeal is, therefore, allowed. The judgment and decree of the Courts below are set aside. The allowing of this second appeal will not in any way affect the rights of the plaintiffs to seek any other proper relief, if they are so advised, in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



To

1.The Principal District Munsif,
Karur.

2.The Principal Sub Judge,
Karur.

+3 CC to M/s.P.DHANASEKARAN, Advocate (SR-13928[F] dated 26/03/2021)

+2 CC to M/s.R.J.KARTHICK, Advocate (SR-13989[F] dated 26/03/2021)

S.A. (MD) .No.51 of 2016
25.03.2021

KK(18.05.2021) 4P 8C