



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.11.2021

Pronounced on : 25.04.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

S.A.(MD)No.658 of 2007

1.Vijayaraj

2.Venkidasamy

3.Veeralakshmi

... Plaintiffs/Appellants/Appellants

Vs.

1.Tamil Nadu Government,
through its District Collector,
District Collector Office, Tuticorin.

2.Rural Development Officer,
Panchayat Union Office,
Kayathar.

3.President of Panchayat,
Panchayat Office,
K.Duraisampuram Village & Panchayat,
Venkateshwarapuram Post,
Kovilpatti Taluk,

4.Dr.Seenivasan

5.Seeniammal

6.Veeralakshmiammal

7.Venkidasamy

... Defendants/Respondents/Respondents



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Prayer : Second Appeal filed under Section 100 of Civil Procedure Code, against the judgment and decree dated 15.11.2006 made in A.S No.37 of 2006 on the file of the Subordinate Judge, Kovilpatti confirming the judgment and decree dated 12.12.2005 and made in O.S No.102 of 2004 on the file of the District Munsif Court, Kovilpatti.

For Appellants	: Ms.N.Krishnaveni, Senior Counsel for Mr.P.Thiagarajan
For Respondents	: Mr.R.Ragavendran, Government Advocate for R1 to R3 Mr.S.Sadeesh Kumar for R4 and R7

JUDGEMENT

The plaintiffs in O.S No.102 of 2006 on the file of the District Munsif Court, Kovilpatti are the appellants in this second appeal. The plaintiffs filed the said suit for mandatory injunction and permanent injunction. The official defendants filed written statements controverting the plaint averments. Based on the divergent pleadings, the trial court framed as many as five issues. The first plaintiff examined himself as PW.1. Exs.A1 to A6 were marked. On the side of the defendants, one witness was examined. Advocate Commissioner's report and plan and the surveyor's sketch were marked as Exs.C1 to C3. After consideration of the evidence on record, by judgment and decree dated



12.12.2005, the suit was dismissed. Aggrieved by the same, the plaintiffs filed A.S No.37 of 2006 before the Sub Court, Kovilpatti. By the impugned judgment and decree dated 15.11.2006 confirmed the decision of the trial court and dismissed the appeal. Challenging the same, this second appeal came to be filed.

2. After hearing the learned counsel on either side, one can notice that the pipeline was laid only on the land earmarked as road margin. The specific stand of the learned Government counsel is that a portion of the private property belonging to the appellants was acquired for forming road. I therefore cannot fault the impugned judgment and decree. However, taking note of the special facts and circumstances obtaining in this case, the first appellant is directed to submit a representation to the District Collector, Tuticorin for issuance of patta. The District Collector, Tuticorin is directed to issue appropriate proceedings mandating the jurisdictional Tahsildar to enquire into the appellants' representation and if after leaving out the acquired portion, particularly, the first appellant is occupying any private land, direct issuance of patta in his favour. Such an enquiry will be conducted and concluded and orders will be passed within a period of three months from the date of receipt of representation from the first appellant.



3. With this direction to the first respondent, this second appeal is disposed of.

25.04.2022

Index : Yes / No
Internet : Yes/ No
skm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Subordinate Judge, Kovilpatti.
2. The District Munsif Court, Kovilpatti.
3. The Record Keeper, V.R. Section,
Madurai Bench of Madras High Court, Madurai.



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G.R.SWAMINATHAN, J.

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S.A.(MD)No.658 of 2007

25.04.2022