



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2022

CORAM:

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

S.A(MD)No.556 of 2016

and

CMP(MD) No.7822 of 2016

WEB COPY

The Punchayath President,
Servaikkaranpatti Punchayath
Servaikkaranpatti Village,
Ambasamudram Taluk,
Tirunelveli District.

... Appellant/Appellant/
3rd Defendant

-vs-

Baskaran

... Respondent/Respondent/
Plaintiff

Prayer :- The second Appeal filed under Section 100 of the Code of Civil Procedure, to set aside the judgment and decree dated 14.08.2015 passed in A.S.No.30 of 2014 by the Sub Court, Ambasamuthram by confirming the judgment and decree dated 27.02.2012 passed in O.S.No.79 of 2005 by the Principal District Munsif Court, Ambasamuthram and allow the second appeal.

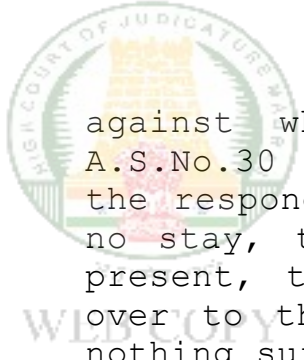
For Appellant : Mr.G.Karnan

For Respondent : Mr.S.Chellapandian

JUDGMENT

This second appeal is filed to set aside the judgment and decree dated 14.08.2015 passed in A.S.No.30 of 2014 by the Sub Court, Ambasamuthram by confirming the judgment and decree dated 27.02.2012 passed in O.S.No.79 of 2005 by the Principal District Munsif Court, Ambasamuthram and allow the second appeal.

2.The learned counsel appearing for the respondent submitted that the suit was filed for the relief of mandatory injunction to remove the pipeline laid in the respondent/plaintiff's property. He further submitted that the suit was decreed in his favour,



against which, the appellant/ defendant filed an appeal in A.S.No.30 of 2014 and the same was also dismissed. Thereafter, the respondent has filed the Execution Petition. Since there was no stay, the execution petition was ordered as prayed for. At present, the pipeline was removed and the possession was handed over to the respondent/plaintiff. Therefore, he submitted that nothing survives for further consideration in this second appeal.

3.However, the learned counsel for the appellant seeks further time to get instructions as to whether the pipeline was removed or not.

4.In this matter, the aggrieved party is only the respondent and he has filed the suit for mandatory injunction to remove the pipeline. Today, when the matter is taken up for hearing, the learned counsel appearing for the respondent submitted that the pipeline was removed from his property and in this regard, he has also produced a copy of the order passed in the Execution Petition as well as the proof for removal of the pipeline. Hence, this Court is of the considered view that nothing survives for further adjudication in this second appeal.

5.In the result, this Second Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

6.At this juncture, the learned counsel for the respondent/plaintiff submitted that Ex.A15 is the original settlement deed and the same may be returned to the respondent/plaintiff.

7.In view of the request made by the learned counsel appearing for the respondent, the Registry is directed to return Ex.A15-settlement deed to the respondent/plaintiff, after retaining a photocopy of the same.

Sd/-

Assistant Registrar(CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

cp



To

1. THE SUBORDINATE JUDGE,
AMBASAMUTHRAM.

2. THE PRINCIPAL DISTRICT MUNSIF,
AMBASAMUTHRAM.

COPY TO:

THE SECTION OFFICER, V.R. SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI. (2 COPIES)

+1 CC to M/s.S. CHELLA PANDIAN, Advocate
(SR-19470[F] dated 19/04/2022)

S.A(MD) No.556 of 2016
and
CMP(MD) No.7822 of 2016
Dated: 08.04.2022

SP/06/05/2022/3P/6C