



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 08.11.2022

CORAM: **JUSTICE N.SESHASAYEE**

S.A(MD).No.1151 of 2008

Subramanian

... Appellant/Appellant/Plaintiff

Vs

1.State of Tamil Nadu

Rep., by

The District Collector,

Collector Office, Pudukkottai,

Pudukkottai District.

2.The Divisional Engineer,

Highways Department,

Pudukkottai, Pudukkottai District.

3.The Assistant Divisional Engineer (Highways Department)

Aavudayarkovil Taluk,

Pudukkottai District.

4.The Tahsildar,

Tahsildar Office,

Aavudayarkovil Taluk,

Pudukkottai District.

... Respondents/Respondents/

Defendants

Prayer : Second Appeal is filed under Section 100 of Code of Civil Procedure, to set aside the judgment and decree passed in A.S.No.132 of



2007 dated 26.06.2008 on the file of the Sub Court, Pudukkottai, confirming the judgment and decree in O.S.No.54 of 2004 on the file of the District Munsif, Aranthangi, dated 12.01.2007.

For Appellant : Mr.N.Balakrishnan
For Respondents : Mr.Villavan Gothai
Additional Government Pleader

JUDGMENT

The plaintiff in O.S.No.54 of 2004 on the file of the learned District Munsif, Aranthangi, is the appellant herein. He had lost successively both before the trial Court and also before the First Appellate Court. For narrative convenience, the parties are referred to by their rank before the trial court. This Second Appeal is not yet admitted.

2. The dispute is over 4 cents of property in Survey No.192 of Aalathoor Village, Avudaiyarkovil Taluk, Pudukkottai District. According to the plaintiff, this property originally belonged to one Kadar Ali. On 07.05.1984 vide Ext.A.1, sale deed, the plaintiff had purchased the property from Kadar Ali. In the aforesaid site, the plaintiff has his residential house and also has three shop buildings. The plaintiff has also been paying property tax to the



local body concerned. When he faced with the prospect of eviction by the defendants, he filed a suit. The defendants contended that the suit property is classified as a poromboke property in the Village 'A' Register.

3. The dispute went to trial, and both sides adduced oral and documentary evidence and both the Courts below concurrently found that the property is poromboke and confirmed that the plaintiff has no right, title or interest in the property, and dismissed the suit. Hence, the second appeal has been filed by the plaintiff.

4. The learned counsel for the plaintiff submitted that the plaintiff has been singled out for discriminatory treatment by the defendants, and that they have not even taken recourse to procedure as declared by law for evicting the plaintiff, and also added that the occupation of the plaintiff in no way affects the free flow of traffic.

5. Refuting the same, the learned Additional Government Pleader submitted that the property on the road margin is required for expansion and development of the road.



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6. This Court perused the judgment of the Courts below, and it does not find any fault in their approach, more particularly that of the first appellate Court to warrant an interference. Having said that, this Court holds that inasmuch as the plaintiff is in settled possession of the property, the defendants cannot force evict the plaintiff and should resort to appropriate statutory provisions and procedure for taking possession of the property. If there are encroachments, then it is the duty of the defendants to take appropriate steps to evict the encroachers from the property and they cannot afford to be lackadaisical in the attitude.

7. In fine, this Court does not find merit in the appeal subject to the direction hereinabove. Hence, the Second Appeal is dismissed. No costs.

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Index : Yes/No
Internet: Yes/No
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To

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1. The Subordinate Judge, Subordinate Court, Pudukkottai.
2. The District Munsif, Aranthangi.
3. The District Collector,
Collector Office, Pudukkottai,
Pudukkottai District.
4. The Divisional Engineer,
Highways Department,
Pudukkottai, Pudukkottai District.
5. The Assistant Divisional Engineer (Highways Department)
Aavudayarkovil Taluk,
Pudukkottai District.
6. The Tahsildar,
Tahsildar Office,
Aavudayarkovil Taluk,
Pudukkottai District.
7. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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N.SESHASAYEE, J.,

Rmk

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