



WEB COPY



C.M.A.No.1963 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1963 of 2020

And

C.M.P.No.14514 of 2020

Sengodan

... Appellant

Vs.

1.A.Nallathambi
2.N.Jothilingam
3.M.Shanmugam @ Dhanapal
4.A.Sivagnanam
5.C.Natesan
6.G.Mani
7.Kolandaivelu
8.T.Manickam

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Order 43 Rule 1(u) of C.P.C., to set aside the judgment and decree dated 07.02.2020 made in A.S.No.18 of 2017 on the file of Subordinate Court, Rasipuram setting aside the judgment and decree dated 03.10.2017 made in O.S.No.77 of 2015 and remanding the suit to Trial Court on the file of District Munsif Court, Rasipuram.

For Appellant : Mr.S.Kaithamalai Kumaran
For Respondents : Mr.S.Senthil for R1 to R6
R7 and R8 – No Appearance



C.M.A.No.1963 of 2020

J U D G M E N T

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This appeal has been filed against the judgment and decree dated 07.02.2020 made in A.S.No.18 of 2017 on the file of Subordinate Court, Rasipuram setting aside the judgment and decree dated 03.10.2017 made in O.S.No.77 of 2015 and remanding the suit to Trial Court on the file of District Munsif Court, Rasipuram.

2.The appellant filed a suit for permanent injunction based on the patta issued by the Revenue Official and the said suit was decreed, against which, the respondents 1 to 6 filed appeal before the Lower Appellate Court. The Lower Appellate Court remanded the matter back to the Trial Court on the ground that cancellation of patta proceeding is pending in W.P.No.11587 of 2019. Subsequently, the said writ petition was disposed of by this Court on 29.09.2023 and the cancellation of patta was affirmed.

3.Civil suit itself was filed by the appellant/ plaintiff only based on patta and subsequently patta was cancelled and the same was affirmed by this Court. Hence, there is no merit in the civil suit. Hence, the order passed by the Lower Appellate Court become infructuous.



C.M.A.No.1963 of 2020

WEB COPY

4.In view of the above, this civil miscellaneous appeal and the civil suit filed by the appellant/ plaintiff are dismissed. However, if the appellant succeed in patta proceedings before the Division Bench or title suit before the civil Court, liberty is granted to the appellant/ plaintiff to work out the remedy in the manner known to law.

5.The civil miscellaneous appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

18.12.2023

pri

Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

- 1.The Subordinate Court,
Rasipuram.
- 2.The District Munsif Court,
Rasipuram.



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M.DHANDAPANI,J.
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