



S.A.No.465 of 2023

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2023

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

C.M.P.No.17612 of 2023
in S.A.No.465 of 2023
and
S.A.No.465 of 2023
and C.M.P.No.13958 of 2023

1. N.Ramasamy

2. Duraisamy

... Petitioners/Appellants

Vs.

1. Perumal

2. Palayapalayam Panchayath

Rep. by its President, Palayapalayam Village,
Sendhamangaam Taluk,
Namakkal District.

3. The Revenue Divisional Officer,

Mohanur Road,
Namakkal Taluk & District.



S.A.No.465 of 2023

WEB COPY

4. The Tahsildhar,
Sendhamangalam Taluk,
Namakkal District.

... Respondents/Respondents

Prayer in C.M.P.No.17612 of 2023 : Civil Miscellaneous Petition filed under Order 23 Rule 1(3) of C.P.C., pleased to permit the appellants to withdraw the second appeal with a liberty to institute a fresh suit "seeking injunction restraining the respondents herein from any manner using appellants land in S.No.156/1A and S.No.157/3 as pathway to reach the property in S.No.156/2.

Prayer in S.A.No.465 of 2023 : Second Appeal filed under Section 100 of C.P.C., pleased to set aside the Judgment and Decree dated 23.12.2021 made in A.S.No.58 of 2021 on the file of the learned Additional Subordinate Judge at Namakkal, confirming the Judgment and Decree made in O.S.No.116 of 2020 dated 29.04.2021, on the file of the learned District Munsif, Sendhamangalam.

For Appellants : Mr.Krishna Prasad

For Respondent : Mr.S.Yudish Padman for R1
Dr.S.Surya
Additional Government Pleader
for R2 to R4



S.A.No.465 of 2023

WEB COPY

JUDGMENT

Learned counsel appearing for the petitioners/appellants submitted that only now the appellants have come to understand that they had proceeded the suit with a wrong prayer and thereby, he seeks permission of this Court to withdraw this second appeal by filing a petition to that effect, with liberty to institute a fresh suit. He also submitted that the appellants have already filed a suit with different cause of action.

2. In view the submission made by the learned counsel for the petitioners/appellants, the Civil Miscellaneous Petition in C.M.P.No.17612 of 2023 is ordered and consequently, the petitioners are permitted to withdraw the Second Appeal, however, making it clear that the appellants are entitled to proceed in the manner known to law. Accordingly, the Second Appeal stands dismissed as withdrawn. No costs. Consequently, the connected miscellaneous petition in C.M.P.No.13958 of 2023 is closed.

04.09.2023

ham/dpa
Index : Yes / No
Speaking / Non-speaking
Neutral Citation : Yes / No



WEB COPY



S.A.No.465 of 2023

A.D.JAGADISH CHANDIRA.,J.

ham

To

1. The Additional Subordinate Court, Namakkal.
2. The District Munsif Court, Sendamangalam.
3. The Section Officer, VR Section, High Court of Madras.

C.M.P.No.17612 of 2023
in S.A.No.465 of 2023
and
S.A.No.465 of 2023,
and C.M.P.Nos.13958 of 2023

04.09.2023