



*S.A.(MD)No.695 of 2022*

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.04.2023**

CORAM:

THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

S.A.(MD)No.695 of 2022

and

C.M.P.(MD)No.10181 of 2022

1.Muthirulan

2.Natarajan

3.Subramanian

... Appellants

/Vs./

Muthirulan

... Respondent

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code to set aside the judgment and decree passed in A.S.No.110 of 2019, on the file of the Sub Court, Manamadurai, dated 12.02.2020 confirming the judgment and decree passed in O.S.No.115 of 2011 on the file of the Principal District Munsif, Manamadurai, dated 14.09.2015 and allow this second appeal.

For Appellants : Mr.S.Srinivasa Raghavan

For Respondent : Mr.S.Parthasarathy



*S.A.(MD)No.695 of 2022*

WEB COPY

## **JUDGMENT**

This second appeal has been filed challenging the concurrent findings of the Courts below. The plaintiffs in the suit in O.S.No.115 of 2011 on the file of the Principal District Munsif Court, Manamadurai, are the appellants herein. The suit was filed for declaration that the suit schedule property belongs to the plaintiffs absolutely and for permanent injunction to restrain the respondent / defendant from using the suit schedule property. Apart from the aforementioned reliefs, the plaintiffs have also sought for declaration that the agreement in Document No. 1626 of 2006 dated 25.08.2006 is null and void.

2. The respondent / defendant is the brother of one late Karuppaiah, father of the plaintiffs. The suit schedule property pertains to a common pathway. The respondent / defendant has been using the common pathway, based on the agreement dated 25.08.2006 (Ex.A3) executed by Karuppaiah in his favour, which is a registered document. However, the appellants / plaintiffs contend that the said agreement is a forged document and therefore, the respondent / defendant cannot use the common pathway, based on the said agreement.



*S.A.(MD)No.695 of 2022*

WEB COPY

3. Based on the pleadings of the respective parties, the trial Court, namely, the Principal District Munsif Court, Manamadurai in O.S.No.115 of 2011 framed issues. Both the appellants / plaintiffs and the respondent / defendant let in oral and documentary evidence. On the side of the appellants / plaintiffs, ten documents were filed, which were marked as Exs.A1 to A10. Two witnesses were also examined on their side, namely, third appellant / third plaintiff as P.W.1, one Baluchamy as P.W.2. On the side of the respondent / defendant, eight documents were marked, namely, Exs.B1 to B8. Three witnesses were also examined on his side, namely, D.Ws.1 to 3, including the defendant himself as D.W.1. The Advocate Commissioner's reports were also marked as Court exhibits, namely, Exs.C1 and C2.

4. Admittedly, the signature in the agreement dated 25.08.2006 granting the rights of the respondent / defendant for using the common pathway, which is the suit schedule property has not been disputed by the plaintiffs, who are the children of the said Karuppaiah, who has signed the said document. The first plaintiff's son, Chandran, is also an attesting



*S.A.(MD)No.695 of 2022*

witness to the agreement dated 25.08.2006 (Ex.A3). Since there is no evidence produced on the side of the plaintiffs to prove that the agreement dated 25.08.2006 (Ex.A3) is a forged document, the trial Court has rightly dismissed the suit. On the very same date of the agreement dated 25.08.2006 (Ex.A3), the sale deed dated 25.08.2006 has also been executed by Karuppaiah in favour of the respondent / defendant (Ex.B7), which has also not been challenged by the plaintiffs. Further, the trial Court has rightly held that the suit schedule property is the self acquired property of Karuppaiah, the father of the plaintiffs, based on the oral and documentary evidence available on record.

5. Only based on the oral and documentary evidence available on record, the trial Court has rightly dismissed the suit. The lower appellate Court, namely the Sub Court, Manamadurai, in the first appeal filed by the plaintiffs in A.S.No.110 of 2019 has also rightly confirmed the findings of the trial Court by dismissing the first appeal. The issues that have been raised in the grounds of this second appeal have been rightly considered by the Courts below and there is no scope for interference by this Court, as there are no substantial questions of law involved for



***S.A.(MD)No.695 of 2022***

further consideration by this Court under Section 100 of C.P.C. In the result, there is no merit in this Second Appeal. Accordingly, this Second Appeal is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

**13.04.2023**

Index : Yes / No  
NCC : Yes / No  
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**TO:**

- 1.The Sub Court, Manamadurai.
- 2.The Principal District Munsif, Manamadurai.
- 3.The Section Officer,  
VR Section, Madurai Bench of Madras High Court,  
Madurai.



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*S.A.(MD)No.695 of 2022*

**ABDUL QUDDHOSE, J.**

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Judgment made in  
**S.A.(MD)No.695 of 2022**

Dated:  
**13.04.2023**