



S.A.(MD)No.191 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.04.2023**

CORAM:

THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

S.A.(MD)No.191 of 2023

M.Neelamegam

... Appellant

/Vs./

1.The District Collector,
Madurai District,
Madurai.

2.The Thasildar,
Madurai South,
Madurai District – 625 020.

3.The Block Development Officer,
Thirupparankundram Panchayath Union,
Thirunagar,
Madurai – 625 006.

4.M.Anandan,
President,
Panaiyur Panchayath,
Madurai – 625 009.

... Respondents

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code to set aside the Judgment and Decree dated 19.06.2017 made in



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A.S.No.59 of 2013 on the file of the I Additional Sub Court, Madurai, confirming the judgment and decree dated 26.04.2013 made in O.S.No. 264 of 2007 on the file of the District Munsif Court, Madurai Taluk.

For Appellant : Mr.M.Ajmal Khan
Senior Counsel
for Mr.M.Ponniah
For Respondents : Mrs.S.Jeyapriya (R1 to R3)
Government Advocate

JUDGMENT

This second appeal has been filed challenging the concurrent findings of the Courts below. The plaintiff in the suit in O.S.No.264 of 2007 on the file of the District Munsif Court, Madurai Taluk, is the appellant herein. The suit was filed for declaration and permanent injunction in respect of the suit schedule property.

2. As seen from the concurrent findings of the Courts below, the suit schedule property belongs to the Government, even though the appellant / plaintiff is in possession of the same for several years.



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3. The learned Senior Counsel appearing for the appellant would submit that even though action was initiated against the appellant / plaintiff under the Land Encroachment Act, in the year 1985 to evict him from the suit schedule property by issuing notice, no further steps were taken pursuant to the said notice. Therefore, only by following the due procedure established under law, the respondents are empowered to evict the appellant / plaintiff from the suit schedule property.

4. Undoubtedly, the appellant / plaintiff can be evicted from the suit schedule property owned by the respondents by following the due procedure established under law. Even though the suit has been filed by the appellant / plaintiff in O.S.No.264 of 2007 on the file of the District Munsif Court, Madurai Taluk, seeking to protect his possession in respect of the suit schedule property, in view of the undisputed fact that the suit schedule property is classified as 'Saalai Poramboke', a Government road, necessarily, no declaration can be granted as sought for by the appellant / plaintiff in the suit.



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5. This Court is of the considered view that the trial Court, namely, District Munsif Court, Madurai Taluk, in O.S.No.264 of 2007, by its Judgment and Decree dated 26.04.2013 and the lower appellate Court, namely, I Additional Sub Court, Madurai, in A.S.No.59 of 2013, by its Judgment and Decree dated 19.06.2017 have rightly rejected the plaintiff's contention and have rightly dismissed the suit. However, the respondents will have to necessarily follow the due procedure established under law for evicting the appellant / plaintiff.

6. For the foregoing reasons, this Court is of the considered view that the substantial questions of law raised by the appellant / plaintiff in the grounds of this second appeal are all issues, which have been rightly considered by the Courts below and there are no substantial questions of law involved in this Second Appeal for further consideration of this Court under Section 100 of C.P.C.

7. In the result, this Second Appeal is dismissed. However, it is made clear that the respondents will have to follow the due procedure



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established under law by giving proper notices to the appellant / plaintiff
before evicting him from the suit schedule property. No costs.

24.04.2023

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

- 1.The I Additional Sub Court, Madurai.
- 2.The District Munsif Court, Madurai Taluk.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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ABDUL QUDDHOSE, J.

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Judgment made in
S.A.(MD)No.191 of 2023

Dated:
24.04.2023