



S.A.No.347 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2024

CORAM

THE HONOURABLE Mr. JUSTICE **G.ARUL MURUGAN**

S.A.No.347 of 2012

The President
Panchayat Union
Panchayat Union Office,
Therku Poigainalloor
... Appellant

-Vs-

1.Sinthasa
2.Sheik Aladeen
3.The Village Administrative Officer,
Therkku Poigainalloor
Nagapattinam Taluk & District.
4.The Tahsildar
Office of the Tahsildar,
Nagapattinam Taluk.
5.The Sub Collector
Office of the Sub Collector
Nagapattinam Town
& Munsifi
6.The Block Development Officer
Office of the B.D.O.
Nagapattinam Town, Taluk
& District Munsifi
7.The District Collector
Nagapattinam Town, Taluk &
District Munsifi
...Respondents
(Respondents 3 to 7 given up,



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No relief against them)
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Prayer:- Second Appeal filed under Section 100 of the Civil Procedure Code against the judgment and decree dated 30.08.2007 in A.S.No.20 of 2007 on the file of the Subordinate Judge, Nagapattinam, reversing the judgment and decree dated 12.01.2007 in O.S.No.454 of 2004, on the file of the District Munsif Court, Nagapattinam.

For Appellant : Mr.R.Subramanian
For R1 & R2 : No Appearance
For R3 to R7 : Given up.

J U D G M E N T

The sixth defendant in the suit, who is the President of the Panchayat Union has filed the present second appeal.

2. The Plaintiffs have come up with two suits in O.S.No.309 of 2003 praying for a declaration that the suit property is customarily used as a burial ground and the other suit in OS.No.454 of 2004 for a declaration that the suit property is a pond used for religious rituals.

3. The 6th defendant had resisted the suit by filing the written



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statement.

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4. After trial, the trial court by common judgment and decree dated 12.01.2007 dismissed both the suits. Aggrieved by the judgment and decree, the plaintiff filed two separate appeals in AS.No.19 of 2007 as against OS.No.309 of 2003 and AS.No.20 of 2007 as against OS.No.454 of 2004 on the file of the Subordinate Judge, Nagapattinam.

5. The Lower Appellate Court after reappraising the evidences allowed both the appeals and thereby, decreed both the suits as prayed for by the plaintiffs.

6. When the above appeals were taken up for hearing today, the learned counsel for the appellant submits that even though both the appeals were allowed and declarations in both the suits were granted, the appellant/President of Panchayat Union has not preferred any second appeal as against the judgment and decree dated 30.08.2007 in AS.No.19 of 2007 passed in respect of the burial ground in OS.No.309 of 2003. But the present second appeal has been filed only as against the judgment



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and decree in AS.No.20 of 2007 passed in respect of the pond in OS.No.454 of 2004.

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7. The learned counsel for the appellant submits that since no appeal has been filed as against the relief granted in OS.No.309 of 2023, there are no further issues between the parties as everything has been sorted out due to the efflux of time.

8. The learned counsel further submits that nothing survives for further adjudication in the above second appeal.

9. In view of the same, this second appeal is dismissed as infructuous. No costs.

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Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

drl

To



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1. The Subordinate Judge, Nagapattinam.
2. The District Munsif Court, Nagapattinam.
3. The Section Officer, V.R. Section, High Court, Madras.

G.ARUL MURUGAN, J.

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