



S.A.No.958 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.958 of 2012

and

M.P.No.1 of 2012

1.The Government of Tamil Nadu
Rep. by the District Collector, Perambalur

2.The Commissioner
Panchayat Union
Tirumanur.

3.The President
Panchayat Union
Tirumanur.

... Appellants

vs.

Kannadasan

...Respondent

Prayer:- Second Appeal filed under Section 100 of the Civil Procedure Code against the judgment and decree dated 14.07.2009 in Cross Appeal No.3 of 2003 passed by the Sub Judge, Ariyalur, confirming the judgment and decree dated 28.10.2002 in O.S.No.243 of 2000 passed by the Principal District Munsif, Ariyalur.



WEB COPY



S.A.No.958 of 2012

For appellants : Mr.M.Muthusamy
Government Advocate

For respondent : Mr.C.Parthiban

J U D G M E N T

The defendants in the suit are the appellants before this Court. The respondent herein filed the suit for permanent injunction.

2. The plaintiff had come up with the suit contending that in the plaintiff's property, he has constructed 6 shops and the shops are facing the road and the plaintiff can have ingress and egress to road through the suit property. Since suddenly on 31.10.2000, the defendants 2 and 3 started to dig foundation in the suit property to put up a passenger waiting shed, the plaintiff has come up with this suit.

3. The defendants have filed a written statement and resisted the suit stating that already a shed had been put up and also the plaintiff has no right to restrain the defendants to putting up the shed.



S.A.No.958 of 2012

WEB COPY

4. The Trial Court, by judgment and decree dated 28.10.2002 partially decreed the suit, directing the respondents to remove the back side wall of the shed. Aggrieved by the same, the respondents filed an appeal in A.S.No.3 of 2003 on the file of the Sub Court, Ariyalur and also the plaintiff filed a cross appeal in Cros.Appeal No.3 of 2003.

5. The Lower Appellate Court, by judgment and decree dated 14.07.2009, dismissed the appeal filed by the respondents and allowed the cross appeal. The Lower Appellate Court directed the respondents to remove the passenger waiting shed put up by them.

6. Challenging the judgment and decree in Cross Appeal No.3 of 2003 on the file of the Lower Appellate Court, the respondents have preferred this Second Appeal.

7. Today when the matter was taken up for hearing, the learned Government Pleader appearing for the defendants/appellants submits that already the shed put up by the respondents become dilapidated and entire shed has been destroyed and as on date, the passenger waiting shed is



S.A.No.958 of 2012

not in existence. In fact, the passenger waiting shed got destructed in the year 2017 itself. As such, the learned Government Pleader for the appellants submits that the issue in this Second Appeal has become infructuous and nothing survives for further adjudication in the appeal.

8. In view of the same, this Second Appeal is dismissed as infructuous. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

28.02.2024.

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
apd

To

1. The Sub Judge, Ariyalur.
2. The Principal District Munsif, Ariyalur.
3. The Section Officer, V.R.Section, High Court, Madras.



WEB COPY



S.A.No.958 of 2012

G.ARUL MURUGAN,J

apd

S.A.No.958 of 2012
and
M.P.No.1 of 2012

28.02.2024