



S.A(MD)Nos.1034 & 1035 of 2008

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.07.2024**

CORAM

THE HON'BLE MR.JUSTICE S.SOUNTHAR

S.A(MD)Nos.1034 & 1035 of 2008

D.R.Elango

... Appellant/1st Respondent
Plaintiff
(In both the case)

Vs.

1.G.Rajamanickam

2.N.Subramanian
Irrigation Inspector,
Town Section,
Public Works Department,
Grand Anaicut,
Canal Kottam Irrigation
Inspectors' Quarters,
Muthupettai Road,
Pattukkottai Town,
Thanjavur District.

3.The Junior Engineer (Irrigation),
Public Works Department,
No.II Section (G.A.C),
Pattukkottai Town,
Thanjavur District.

4.The State of Tamil Nadu,
Represented by the District Collector,
Court Road,
Thanjavur.

... Respondents
(In both the case)



S.A(MD)Nos.1034 & 1035 of 2008

PRAYER in S.A(MD)No.1034 of 2008: Second Appeal filed under Section 100 of the Civil Procedure Code, to set aside the judgment and decree, dated 15.09.2006 made in A.S.No.3 of 2006 on the file of the Subordinate Judge, Pattukkottai and confirm the judgment and decree, dated 02.09.2004 made in O.S.No.127 of 2004 on the file of the District Munsif Court, Pattukkottai.

PRAYER in S.A(MD)No.1035 of 2008: Second Appeal filed under Section 100 of the Civil Procedure Code, to set aside the judgment and decree, dated 15.09.2006 made in A.S.No.35 of 2006 on the file of the Subordinate Judge, Pattukkottai and confirm the judgment and decree, dated 02.09.2004 made in O.S.No.127 of 2004 on the file of the District Munsif Court, Pattukkottai.

In both the case:

For Appellant : Mr.S.Kasirajan
For R-1 : Mr.S.Deenadhayalan
For R-2 : No appearance
For R-3 : Mr.SRA.Ramachandran
Additional Government Pleader

COMMON JUDGMENT

The plaintiff in the suit is the appellant herein.



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2. The plaintiff filed a suit for recovery of compensation for the damage caused to his reputation by the defamation act of defendants. The suit was decreed by the Trial Court. On appeal filed by the defendants 1 and defendants 2 - 4, the First Appellate Court allowed the appeals and dismissed the suit. Aggrieved by the same, the plaintiff is before this Court.

3. According to the appellant / plaintiff, he is a reputed businessman in the Society and he was in enjoyment of patta land in Survey No.165/6 in Maharaja Samudram Village. On 08.07.1999, he cut and removed a Tamarind tree standing in the said land. The second defendant preferred a petition to the Sub-Inspector of Police (Crimes) Pattukkottai on 10.07.1999, as if the Tamarind tree belonged to Government standing on Public Works Department land was cut and removed by the plaintiff. The defendant alleged offence of theft against the plaintiff. On the basis of the false complaint, the Sub Inspector of Police called the plaintiff for holding an enquiry. During the said enquiry, petition, dated 08.07.1999, preferred by first defendant and the petition of second defendant, dated 10.07.1999, preferred to the police, were read out to the plaintiff in the



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presence of various persons. It was asserted by the plaintiff that land in Survey No.165/6 was his patta land and he cut and removed the trees standing in his patta land and the defendants 1 and 2 made false allegation against plaintiff, as if he cut and removed the tree belonged to the Public Works Department. The complaint preferred by the defendants 1 and 2 caused serious damage to the reputation of the plaintiff in the eye of general public and hence, he was constrained to file a suit for recovery of damages to the tune of Rs.1,00,000/-.

4. The defendants 1 and 2 filed a separate written statement and resisted the suit by claiming the plaintiff cut and removed the trees standing in the survey No.165/6 belonged to the Government. It was also claimed by them that complaint was made by them against the petitioner on a *bona fide* belief that the Tamarind tree was standing in the Government poramboke land under the control and supervision of Public Works Department. It was also claimed by them that, they had no *malice* or ill-will towards the plaintiff and they had no intention to cause damage to his reputation. The allegation made in the plaint as if he was subject to the humiliation in the presence of others was specifically denied. It was also claimed by the defendants that, there were other litigations involving



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the plaintiff pending in other forums and the averment recording the act of defamation made against the defendants were denied as false. On these pleadings, the defendants sought for dismissal of the suit.

5. Before the Trial Court, the plaintiff was examined as P.W.1 and 17 documents were marked on his side as Exhibits A.1 to A.17. The first and second defendants were examined as D.W.1 and D.W.2. 7 documents were marked on their side as Exhibits B.1 to B.7.

6. The Trial Court on appreciation of oral and documentary evidence available on record came to the conclusion that, the act of defendants caused damage to the reputation of the plaintiff and hence, directed the defendants 1 and 2 to pay a compensation of Rs.10,000/- each to the plaintiff. Aggrieved by the said judgment, defendants 1 and defendants 2 - 4 preferred two separate appeals in A.S.Nos.3 and 35 of 2006 on the file of the Sub Court, Pattukottai. The First Appellate Court on re-appreciation of evidence available on record came to the conclusion that, the plaintiff failed to prove the act of defamation on the part of the defendants and hence, allowed the appeal. Aggrieved by the same, the plaintiff has come by way of these Second Appeals.



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7. The learned Counsel appearing for the appellant vehemently contended that the first and second defendants in their complaint mentioned as if the plaintiff had committed a theft of the tree standing in the Government land. However, the surveyor, who surveyed the lands opined that the trees removed by the plaintiff were standing in Survey No.165/6 and the said survey number not classified as a Government poromboke. In these circumstances, the averments made by the defendants 1 and 2 in their complaint is a deliberate falsehood and the same caused serious damage to the reputation of the plaintiff in the eye of general public.

8. It is the specific case of the plaintiff that the allegations made by the defendants 1 and 2 against the plaintiff caused damage to his reputation in the eye of general public. In order to prove the same, the plaintiff examined himself as P.W.1 and no other independent witnesses were examined. It was averred by the plaintiff that, false complaint of the defendants 1 and 2 were read out by the police people in the enquiry conducted by them in the presence of general public. However, in order to substantiate the same, the plaintiff has not examined any independent



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witness to prove that the allegations made by the defendants were read out in public so as to cause damage to the reputation of the plaintiff.

Except the interested testimony of the plaintiff as P.W.1, there is no other evidence by independent witness available on record to suggest that allegations made against the plaintiff was read out in public and the said act caused damage to the reputation of the plaintiff.

9. In order to get compensation, on the allegation of defamation, the plaintiff must aver and prove that the act of defendants was deliberately made in the presence of general public and the reputation of the plaintiff was damaged in the eye of general public. In the case on hand, absolutely, there is no evidence available on record to suggest that, allegations of the defendants were made in the presence of general public and it caused damage to the reputation of the plaintiff. Exhibits A.1 and A.2 are complaint made by the defendants to the third defendant. The other document Exhibits A.3 to A.17 are only communications between the parties. Exhibits A.1 to A.17 will not help the plaintiff to suggest that allegation against the plaintiff was made public so as to cause damage to his reputation. Further, when P.W.1 was examined, he clearly admitted that suit survey No.165/6 was not his property and he did not know the



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patta number for the same. He also admitted that he has not produced any document before the Court to suggest that he was in possession of suit survey number. Therefore, the plaintiff failed to substantiate that the land in survey No.165/6 belongs to him and he cut down the trees that stood in his property.

10. Taking into consideration all these aspects, the First Appellate Court rightly came to the conclusion that, plaintiff failed to prove the act of defendants caused damage to his reputation in the eye of general public and dismissed the suit. The final conclusion reached by the First Appellate Court is based on proper appreciation of oral and documentary evidence available on record and the same is not vitiated by any perversity.

11. In fine, both the Second Appeals stand dismissed. There shall be no order as to costs.

16.07.2024

NCC	:	Yes / No
Index	:	Yes / No
Internet	:	Yes



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To

- 1.The Subordinate Judge,
Pattukkottai.
- 2.The District Munsif Court,
Pattukkottai.
- 3.The Section Officer,
Vernacular Record Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SOUNTHAR, J.

BTR

Judgment made in
S.A(MD)Nos.1034 & 1035 of 2008

Dated:
16.07.2024