



S.A.(MD).No.352 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

S.A.(MD)No.352 of 2021
and
C.M.P(MD)No.4654 of 2021

1. N.Jothiraju
 2. N.Mohan
 3. N.Jeevakaarunyam
- ... Appellants

/Vs./

1. The State of Tamilnadu,
Represented by its District Collector,
Collectorate Buildings,
Madurai.
 2. The Managing Director/ Chairman,
Damin, 31, Kamaraj Salai,
Cheppakkam, Chennai 5.
 3. P.R.Baskar
- ...Respondents

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, to set aside the Decree and Judgment in AS No.141 of 2010 dated 31.01.2017 passed by the Learned I Additional Subordinate Judge, (Melur Camp), Madurai confirming the Decree and Judgment in O.S No.



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294 of 2007 dated 31.03.2010 passed by the Learned District Munsif, Melur by allowing the second appeal.

For Appellants : M/s.D.Saravanan
For R-1 : M/s.S.Jeya Priya,
Government Advocate
For R-2 : Mr.A.K.Manikkam

JUDGMENT

This Second appeal is filed against the concurrent findings passed by the Courts below.

2. For the sake of convenience, the contesting parties shall be referred to as Plaintiffs and Defendants. The Plaintiffs are the Appellants herein and the Defendants are the Respondents herein.

3. The suit in O.S.No.294 of 2007 was filed for declaration, declaring that the suit properties situated in S.Nos.662/8B and 679/2 are plaintiffs' properties with consequential direction to restrain the defendants from causing damage to the plaintiffs' suit properties. The 3rd



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defendant in the suit was running a quarry in the adjacent land situated in S.No.702 thereby interfering with the peaceful possession and enjoyment of the suit property.

4. It is an admitted fact that a quarry was carried on in S.No. 702 and in S.No.702 there is a channel running through the property. When the defendants were carrying on quarry operation in S.No.702, the plaintiffs agricultural land situated in S.Nos.662/8B and 679/2 were polluted. Hence, the plaintiffs had filed a suit.

5. Today, when the Second Appeal was taken up for hearing, the Learned Counsel appearing for the Plaintiffs and the Defendants had submitted that as on date there is no quarry operation in S.No.702. Moreover, the plaintiffs have sought for declaration and injunction in S.No.702 and the said land does not belong to the plaintiff. Therefore, this Court is of the considered opinion that as on date the Second Appeal is an unnecessary litigation.



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6. Accordingly, this Second Appeal stands dismissed. The Judgment and Decree in AS No.141 of 2010 dated 31.01.2017 passed by the Learned I Additional Subordinate Judge, (Melur Camp), Madurai confirming the Decree and Judgment in O.S No. 294 of 2007 dated 31.03.2010 passed by the Learned District Munsif, Melur, are hereby confirmed. This Court is also confirming that the suit properties in S.Nos.662/8B and 679/2 are belonging to the plaintiffs. In future, if the quarry is allowed in S.No.702, the plaintiffs are at liberty to contest the same, as per Law. No Costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
NCC : Yes / No
ksa



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TO:

1. The I Additional Subordinate Court, (Melur Camp),
Madurai.
2. The District Munsif Court, Melur,
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

KSA

Judgment made in
S.A.(MD)No.352 of 2021

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