



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.04.2024**

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A(MD)NO.6 OF 2016

and

C.M.P(MD)No.126 of 2016

1.R.Anbalagan

2.R.Mathialagan :Appellants/Appellants/Defendants

.vs.

1.RM.Ramanathan

2.RM.Subramanian(died)

3.RM.Narayanan

4.S.P.Gnanambal

5.O.Alamelu

6.Vijayalakshmi

7.Saranya

8.Ramasamy

(Respondents 4 to 8 are brought on record as legal representatives of the deceased second respondent as per order of this Court made in C.M.P(MD)Nos.2895 of 2016 in S.A(MD)No.6 of 2016, dated 28.03.2016.)

:Defendants/Respondents/Respondents

PRAYER: Second Appeal filed under Section 100 of Civil Procedure Code against the judgment and decree made in A.S.No.57 of 2014,



dated 27.07.2015, on the file of Sub-Court, Sivagangai, confirming the judgment and decree made in O.S.No.54 of 2012, dated 10.06.2014, on the file of District Munsif Court, Sivagangai.

For Appellant	:Mr.G.Prabhu Rajadurai
For Respondent-1	:Mr.M.Ramu
For Respondent-2	:Died
For Respondent-3	:No appearance
For Respondents 4 to 8	:Dismissed vide order of this Court, dated 09.02.20217

JUDGMENT

It is seen from the records that the second Appeal was already dismissed as against respondents 4 to 8, who were brought on record as legal representatives of the deceased second respondent.

2.The respondents 1 to 3 filed a suit seeking a decree of permanent injunction restraining the appellants/defendants from interfering with their right to use suit item No.1, which is shown as "ABCD" in the plaint plan with the access to suit item No.2. The suit was decreed in favour of respondents 1 to 3 and the appeal filed by the appellants/defendants was also dismissed. Challenging the concurrent findings, the appellants have approached this Court



by way of this Second Appeal.

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3. When the Second Appeal is dismissed as against respondents 4 to 8, who are the legal representatives of the deceased second respondent, the decree for permanent injunction granted in favour of respondents 1 to 3 got confirmed as far as the second respondent is concerned. The respondents 1 to 3 are brothers and sons of Ramasamy Chettiyar. In such circumstances, the decree in favour of respondents 1 to 3 is inseparable one. When the decree for permanent injunction in favour of the second respondent is confirmed by the dismissal of the Second Appeal for the failure of the appellants to take steps to bring on record the legal representatives of the deceased second respondent, no useful purpose would be served in keeping the Second appeal as against the other respondents.

4. Therefore, the Second Appeal stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

03.04.2024

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



To

1. The Sub-Judge,
Sivagangai.
2. The District Munsif,
Sivagangai.
3. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SOUNTHAR, J.

vsn

JUDGMENT MADE IN
S.A(MD)NO.6 OF 2016
and
C.M.P(MD)No.126 of 2016

03.04.2024