



SA No. 1101 of 2007



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-03-2025

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THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI

SA No. 1101 of 2007

1. The District Collector,
Namakkal Dt.
2. The Tahsildar,
Rasipuram Circle.
3. The Tahsildar,
Adi-Dravidar Welfare,
Namakkal.
4. The Village Administrative Officer,
Andagalurgate Village,
Rasipuram.
5. The Principal,
Thiruvallurvat Government Arts College,
Andagalurgate.

Appellants

Vs

- Sengottaiyan(died)
2. Aththayi
 3. Rajamani
 4. Jothimani

Respondent(s)



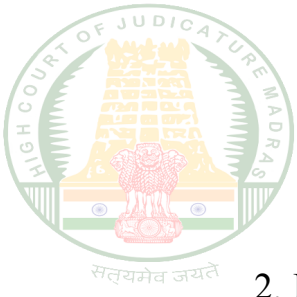
PRAYER :- Second Appeal filed under Sec.100 of Code of Civil Procedure, praying to set aside the judgment and decree dated 01.08.2003 made in O.S.No.123 of 2002 on the file of District Munsif Court, Rasipuram, which was confirmed by the judgment and decree made in A.S.No. 324 of 2003 dated 29.04.2005 on the file of Addl. District Sessions Court, Namakkal.

For Appellants: Mr.R.Ramanlal
Addl. Advocate General
assisted By
Mrs.R.Anitha,
Spl.Govt. Pleader

For Respondents: Mr.V.P.Sengottuvel
Senior Counsel for
Mr. K.R.Nishanth For RR2 To 4
R1 - Died

JUDGMENT

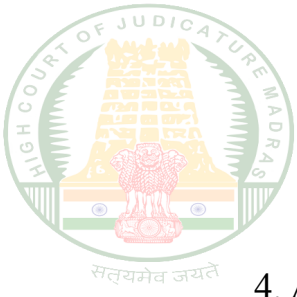
The appellants/Government, who are the defendants in the suit in O.S.No. 123 of 2002, challenging the reversal findings of the courts below rendered in A.S.No. 324 of 2003 by the Addl. District Sessions Court (Fast Track Court), Namakkal arising out of trial court findings rendered in O.S.No.123 of 2002 by the District Munsif, Namakkal, have preferred this Second Appeal.



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2. For the sake of convenience, the parties are denoted as per the ranking in the suit.

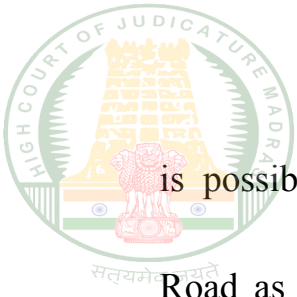
3. Before the trial court, the original plaintiff had filed a suit for the relief of permanent injunction not to cause interference in his enjoyment of 20 ft. width pathway on the north to south and on the east to west, there was a 20 ft. width pathway said to be included in Survey No.12/2 against the Government. According to defendants/Government, the property in Survey No.12/2 is the Government Poramboke land, in which the plaintiff has no right and title, he is not entitled to claim as pathway. Considering that, the suit was dismissed. Against which, an appeal suit in A.S.No. 324 of 2003 has been filed, wherein the first appellate judge had agreed the plaintiff's claim and permitted him to use the pathway. Challenging the said findings, the Government had preferred this Second Appeal.



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4. At the time of argument, the respondent/plaintiff submitted that there is possibility to give the alternative pathway to reach the Andagalur-Rasipuram road from the plaintiff's patta land.

5. During the pendency of proceedings, this Court appointed an Advocate Commissioner and in pursuant to the same, Advocate Commissioner had visited the property and measured the property with the help of Surveyor in the presence of plaintiff as well as the Government and submitted a report. On perusal of report, it would clearly indicates that the property in Survey No.12/2 is a Government poramboke land, wherein the Government proposed to construct hostel for the welfare of students. Therefore, the learned Addl. Advocate General raised strong objections to use the said pathway said to be claimed as 20 ft. width on the north to south as shown in the plaint plan. Admittedly, it is not a permitted pathway and for the sake of convenience, the plaintiff used the said land as pathway for egress and ingress to reach his land. But, on perusal of report, the Advocate Commissioner had suggested that there



is possibility of forming alternative pathway to reach Andagalur-Rasipuram

Road as shown in the Commissioner's report from the point of C/B with an extent of 20 ft. width pathway on the southern side adjacent to plaintiff's patta land. However, the said proposal was strongly opposed by the Addl. Advocate General stating that if the alternative pathway is allotted, it would cause disturbance to the hostel students. But, as on date, there is no construction in the said property in Survey No.12/2. Therefore, the forming of alternative pathway would not cause prejudice to the students.

6. Furthermore, the respondents/plaintiff filed an affidavit stating that without prejudice to their case in the above appeal, alternatively they would submit that if the appellants provide a 20 ft. width pathway from the point – C/B marked in the Advocate Commissioner's sketch at Page No.9 upto 'F' mark in the boundary line between lands in S.No.12/2 and S.No.11/2B as shown in yellow colour in the sketch produced by the Advocate Commissioner himself as an access to the respondents/plaintiff residence and poultry shed situated at S.No.11/2B would be beneficial to him. Considering that, the proposed pathway



will be at one end of the land in S.No.12/2 and also satisfy the needs of the respondent/plaintiff, who has got a decree in his favour, indeed the said pathway would not cause any prejudice to State.

7. Heard and considered rival submissions on either side and perused the materials available on record.

8. Considering their submissions as well as Commissioner's report, this Court is inclined to direct the appellants/defendants to give 20 ft. width pathway upto 'F' point adjacent to the land of plaintiff. Accordingly, the alternate pathway is ordered. However, as rightly insisted by the learned Addl. Advocate General, the alleged existing pathway said to be claimed by the plaintiff in the plaint schedule is not put to further use of plaintiff on providing alternative pathway. Hence, the Tahsildar, Rasipuram Circle/2nd appellant is directed to give the said alternative pathway to the plaintiff as described in the Commissioner's report i.e. from the point of C/B upto 'F' point marked as boundary line in between land in S.No.12/2 and S.F.No.11/2B as shown in yellow colour in the



Advocate Commissioner's sketch within a period of three months from the date

of receipt of copy of this judgment. Accordingly, this Second Appeal is disposed

of and alternate pathway is ordered and the findings of first appellate court in

A.S.No. 324 of 2003 is modified. No costs.

20-03-2025

rpp

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. Addl. District and Sessions Court, Namakkal.
2. District Munsif Court, Rasipuram.
3. The District Collector, Namakkal Dt.
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6. The Village Administrative Officer, Andagalurgate Village, Rasipuram.



7. The Principal, Thiruvallurvat Government Arts College, Andagalurgate.

8. The Public Prosecutor, High Court, Madras.

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9. Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

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