



S.A.No.1135

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2025

CORAM

THE HONOURABLE Mr.JUSTICE MUMMINENI SUDHEER KUMAR

S.A.No.1135 of 2007
and M.P.No.1 of 2007

1. Padma
2. Jagadeesan (Died)
3. Suriya Praba
(1st appellant is recorded as LR
and 3rd appellant brought on record
as LR of the deceased 2nd appellant
vide order of Court dated 26.09.2019
made in C.M.P.Nos.3778 to 3780 of 2018
in S.A.No.1137 of 2007)

... Appellants

Vs.

Dhanapal

... Respondent

PRAYER: Second Appeal filed under Section 100 of the Code of Civil Procedure against the Judgment and Decree passed in A.S.No.4 of 2006 dated 25.10.2006 on the file of Sub Court, Mannargudi, confirming the judgment and decree passed in O.S.No.172 of 2004 dated 17.02.2006 on the file of District Munsif Court, Mannargudi.



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For Appellants : Ms.P.T.Ramadevi

For Respondent : Respondent - No appearance

JUDGMENT

This second appeal is directed against the judgment and decree passed in A.S.No.4 of 2006 dated 25.10.2006 on the file of the Sub Court, Mannargudi, confirming the judgment and decree passed in O.S.No.172 of 2004 dated 17.02.2007 on the file of Court of District Munsif, Mannargudi.

2. The said suit was filed by the respondent/plaintiff seeking a permanent injunction restraining the defendants/appellants from in any manner putting up further construction in the portion marked as EFGH in the rough sketch i.e. T.S.No.1044/1 and also seeking a mandatory injunction directing the defendants/appellants to remove the construction put up over the property in T.S.No.1044/1 marked as EFGH in the rough sketch.

3. The said suit was contested by the defendants/appellants and the



trial Court, after considering the matter in detail and placing reliance on the reports submitted by the Advocate Commissioners, which were marked as Exs.C1 and C3, decreed the suit by judgment and decree dated 17.02.2006.

4. A perusal of the judgment passed by the trial Court discloses that the reliance was placed on Ex.C1, the report of the Advocate Commissioner, which revealed that the defendants/appellants had encroached into the EFGH portion shown in the rough sketch without any manner of right and also made certain constructions thereon. Though another Advocate Commissioner was appointed at the instance of the defendants/appellants and his report was marked as Ex.C3, the same also confirmed the contents of the Advocate Commissioner's report marked as Ex.C1. But, it appears that there is some protrusion of the small part of construction of the plaintiff into land belonging to the defendants/appellants. In case, if there is any such protrusion or encroachment into the property of the defendants/appellants, it is for them to take appropriate steps in accordance with law, but it does not in any manner prevent or come in the way of the plaintiff in seeking the reliefs as prayed for and granted by the trial Court in



the decree. The trial Court decreed the suit as prayed for and granted a permanent injunction restraining the defendants/appellants interfering with the portion of the land shown as EFGH in the rough sketch and also granted a mandatory injunction to remove the encroachment in the said EFGH portion.

5. The appeal filed by the defendants/appellants in A.S.No. 4 of 2006 was dismissed by the First Appellate Court by duly considering the facts of the case and after examining the entire materials on record, including documentary and oral evidence. It is aggrieved by the judgment and decree passed by the First Appellate Court that the present second appeal has been filed.

6. After having heard the learned counsel for the defendants /appellants at length, this Court is unable to find any substantial question of law warranting interference with the concurrent findings of the Courts below. Both the trial Court as well as the lower appellate Court have discussed the entire evidence, both oral and documentary, in detail and



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recorded factual findings. A second appeal filed under Section 100 of C.P.C can be entertained only in the case of involvement of any substantial question of law. In the instant case after having examined the matter thoroughly, this Court does not find any substantial question of law. Hence, the second appeal which has been pending for admission since the year 2007, is liable to be dismissed. Accordingly, this Second Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

31.10.2025

Index : Yes/No
Speaking Order : Yes / No
srn

To

1. The Sub Court, Mannargudi
2. The District Munsif Court, Mannargudi.
3. The Section Officer,

VR Section, Madras High Court,
Chennai.



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MUMMINENI SUDHEER KUMAR, J,

srn

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