



S.A.No.1124 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 17.04.2025

CORAM :

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

S.A. No.1124 of 2010

and

M.P.No.1 of 2010

1. A.Ahmed Ibrahim

2. Mohammed Hanifa

(Appellants are for themselves and
for the Residents of High School Road
and Nainarkulam Street, Thittachery)

... Appellants

Vs.

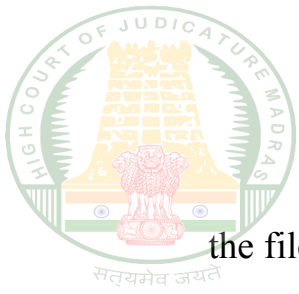
1. Government Higher Secondary School,
Rep. By Headmaster and Treasurer
Thittachery,
Nannilam Taluk.

2. Thittachery Town Panchayat,
Rep. By Executive Officer,
Thittachery,
Nannilam Taluk.

...Respondents

PRAYER: Second Appeal filed under Section 100 of Code of Civil Procedure to set aside the Judgment and Decree dated 25.08.2008 made in A.S.No.38 of 2007 on the file of the Sub Court at Nagapattinam confirming the Judgment and Decree dated 14.02.2007 made in O.S.No.172 of 2004 on

Page 1 of 7



S.A.No.1124 of 2009

the file of the District Munsif Court at Nagapattinam.

WEB COPY

For Appellants : Mr.T.Girish

For Respondents : Mr.T.Arunkumar

Additional Government Pleader for R-1

JUDGMENT

This Second Appeal has been filed to set aside the Judgment and Decree dated 25.08.2008 made in A.S.No.38 of 2007 on the file of the Sub Court at Nagapattinam confirming the Judgment and Decree dated 14.02.2007 made in O.S.No.172 of 2004 on the file of the District Munsif Court at Nagapattinam.

2. The learned Counsel for the Appellants submitted that the Appellants are the Plaintiffs before the trial Court as well as the first Appellate Court. Both the trial Court and the first Appellate Court had dismissed the Suit. Aggrieved the Plaintiffs had preferred this Second Appeal.

3. The learned Additional Government Pleader (Civil) for the first Respondent submitted that the Appeal itself has no merits. The Appellants who are the local residents used to enjoy the pathway which was in continuation of the road including the School Ground. Since the Anti-Social



S.A.No.1124 of 2009

elements were misusing the School premises. To drop the anti-social elements, the first Respondent in the Second Appeal was forced to put up Compound Wall. Therefore, the right of pathway through the School Ground was restricted by Compound Wall. Therefore, the persons who are residing near the School are forced to take a turn by the public road whereas they are seeking a right of pathway through the School Ground which cannot be permitted. Also, the learned Additional Government Pleader placed the Rough Sketch provided at the time of trial. The claim of the Plaintiffs is clearly specified that instead of through North Pattakkal Street, C.C.Road, they used to enjoy the right of pathway through the School Ground. Now, it has been restricted by putting up compound wall thereby the North Pattakkal Street, C.C. Road turns towards East and then proceeds towards North and then against to West. Therefore, they have to take a diverted path. The claim of the Plaintiffs cannot at all be sustained regarding the protection of the School and its Students. Therefore, the Compound Wall cannot be open for the Plaintiffs who are the residents.

4. It is the contention of the learned Additional Government Pleader



S.A.No.1124 of 2009

that this Appeal has no merit based on proper appreciation of evidence by the learned trial Judge and the learned first Appellate Judge independently, they had arrived at a same conclusion that the Plaintiffs have no right. Therefore, this Second Appeal also cannot survive.

5. Considering the submission of the learned Additional Government Pleader, this Second Appeal is dismissed as having no merits.

6. The learned Counsel for the Appellants submitted that the residents of area including the Plaintiffs used to have access to the road through the playground of Thitacherri Higher Secondary School which was blocked by putting up the compound wall. Further, he submitted that only in the present Application, Rough Sketch has been mentioned as playground. It is not a playground.

7. Considering the fact that the claim made by the Plaintiffs in the Suit itself mentioned Thitacherri Higher Secondary School as the first Respondent, the claim of the Plaintiffs before the trial Court was negated



S.A.No.1124 of 2009

by the learned trial Judge after considering the evidence of the Defendants.

Under those circumstances, the claim that it was not a playground cannot at all be accepted. The reason that Thittacheri Higher Secondary School added or impleaded as Defendant itself shows that the place through which the Defendant, Plaintiffs claim the road in the Northern Side from the Southern Side cannot be granted by any Courts of law.

In the light of the submissions of the learned Additional Government Pleader (Civil Suit) and based on records, this Second Appeal cannot be allowed. The Substantial Questions of Law are against the Appellants/Plaintiffs.

In the result, this ***Second Appeal is dismissed.*** The Judgment and Decree dated 25.08.2008 made in A.S.No.38 of 2007 on the file of the Sub Court at Nagapattinam confirming the Judgment and Decree dated 14.02.2007 made in O.S.No.172 of 2004 on the file of the District Munsif Court at Nagapattinam is confirmed. Consequently, connected Miscellaneous Petition is closed. No costs.



S.A.No.1124 of 2009

17.04.2025

WEB COPY

Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order
dh

To

1. The Government Higher Secondary School,
Rep. By Headmaster and Treasurer
Thittachery,
Nannilam Taluk.
2. Thittachery Town Panchayat,
Rep. By Executive Officer,
Thittachery,
Nannilam Taluk.
3. The Sub Court,
Nagapattinam.
4. The District Munsif Court,
Nagapattinam.



WEB COPY



S.A.No.1124 of 2009

SATHI KUMAR SUKUMARA KURUP.J.,

dh

S.A. No.1124 of 2009

17.04.2025

Page 7 of 7