



S.A.Nos.264 to 266 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 29.08.2025

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

S.A.Nos.264 to 266 of 2009

S.A.No.264 of 2009

K.S.Paramasivam	...	Appellant
	Vs	
1.S.S.Nachimuthu		
2.K.S.Senthil Kumar		
3.K.K.Seeranga Gounder	...	Respondents

S.A.No.265 of 2009

K.S.Paramasivam	...	Appellant
	Vs	
1.K.Thiagarajan		
2.K.S.Senthil Kumar		
3.S.S.Nachimuthu		
4.K.K.Seeranga Gounder		
5.State of Tamil Nadu rep.by its District Collector, Erode District, Erode - 11.		
6.The Tahsildar Bhavani Taluk, Bhavani - 638 301.		
7.The Director General of Police Chennai - 4.		



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8.The Superintendent of Police,
Erode District, Erode - 1.

9.The Inspector of Police (Law & Order)
Bhavani Police Station,
Bhavani Taluk, Erode District.

10.The Inspector of Police (Law & Order)
Appakudai Police Station,
Appakudai, Bhavani Taluk,
Erode District.

... Respondents

S.A.No.266 of 2009

K.S.Paramasiam

... Appellant

Vs

K.Thiagarajan

... Respondent

Common Prayer: These Second Appeals have been filed under Section 100 of Code of Civil Procedure, 1908 against the judgment and decree dated 21.04.2008 made in A.S.Nos.47, 48 & 46 of 2007 on the file of the Additional District Court - Fast Track Court No.4 at Bhavani, reversing the judgment and decree dated 19.09.2007 made in O.S.Nos.125, 167 & 161 of 2006 on the file of the Principal District Munsif Court, Bhavani.

For Appellant	...	Mr.Zeenath Begam
in all SAs.		
For Respondents	...	Mr.N.Manokaran
in all SAs.		



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COMMON JUDGMENT

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All the second appeals are taken up together since the issue revolves is the same.

2.S.A.No.264 of 2009 emanates from O.S.No.125 of 2006 filed by the appellant before the Principal District Munsif Court at Bhavani seeking a judgment and decree of permanent injunction restraining the defendants from interfering with the right of the plaintiff to lay a pipeline in his land and draw water to the lands of the plaintiff where agriculture is being done. This relates to S.No.117/5 RS.No.117/5A at Kuppandampalayam village Bhavani Taluk in Erode district.

3.S.A. No.265 of 2009 emanates from O.S.No.167 of 2006 again filed by the appellant herein before the Principal District Munsif Court at Bhavani seeking a judgment and decree that the plaintiff has a right to seek permission to draw water through pipeline by the first and second defendants/the Collector of Erode and the Revenue Tahsildar seeking a permanent injunction restraining the fifth and sixth defendants from

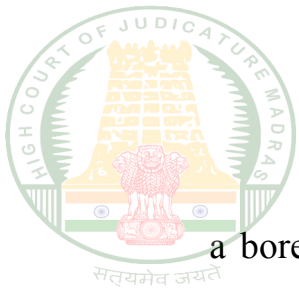


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interfering with such drawing of water through pipeline and costs of the suit.

4.S.A.No.266 of 2009 emanates from O.S.No.161 of 2006 wherein the appellant was the defendant and which suit had been filed by the respondents seeking permanent injunction restraining the defendant/appellant herein from laying any underground pipeline in the suit cart track at R.S.Nos.117/5, 117/6 and 409/5 of Kupbandampalayam village and also the land in R.S. No.9/1, 9/2, 9/3, 9/4 & 9/5 of Moongilpatti village, which had been described more fully in the schedule to the plaint.

5.Written statements were filed by the respective defendants questioning the right and authority of the plaintiff, particularly, in O.S.No.125 of 2006 and in O.S. No.167 of 2006 from laying pipeline over the suit cart track and also in the underground of the land of the defendant for the only purpose of drawing water from the other lands of the plaintiff where agriculture is done. For the reasons best known, the plaintiff had not dug bore well or well in the lands where agriculture is done, but, for the sake of convenience had purchased a small piece of land elsewhere and had dug

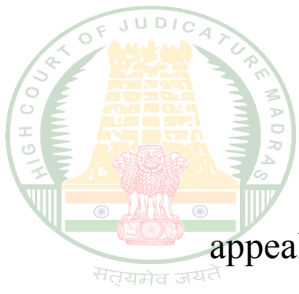


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a bore well/well and sought permission to draw water underground to the lands where agriculture is being done. This would necessitate cutting across the suit cart tract which is used in common and also the agricultural land of the defendant over which naturally the defendant has serious objections.

6.The learned Principal District Munsif at Bhavani had delivered a common judgment in all the three suits on 19.09.2007. By the said common judgment, O.S. No.125 of 2006 had been decreed and permanent injunction had been granted. Similarly, in O.S. No.161 of 2006, the suit had been dismissed, which effectively mean that the plaintiff therein was not entitled to draw water to the land to the land where agriculture was being done. By the same common judgment, O.S.No.167 of 2006 was decreed and injunction as prayed for was granted.

7.I am deeply conscious that I am not entering into a discussion as to the reasons for which the learned Principal District Munsif had decreed two of the suits and had dismissed one of the suits. This had necessitated three appeal suits to be filled in A.S.Nos.46, 47 & 48 of 2007. All these three



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appeal suits came up for consideration before the Additional District Court Fast Track Court IV, Bhavani, Erode district. By a common judgment dated 21.04.2008, all the three appeals suits were allowed and the judgment and decree of the trial Court was reversed. Thereafter, the present three second appeals have been filed. To the extent to which the records have been perused, it shows that the second appeal have been admitted on the two following substantial questions of law,

1. Whether the judgment of the lower Appellate Court is vitiated in that it has held, that, the judgment in O.S.No.2 of 2005 is binding on the Appellant herein, particularly when he is not a party to that decree?

2. When the respondent herein has conveyed his lands absolutely in favour of the Government for formation of a road, whether thereafter he has any right to raise any objection for the appellant herein seeking permission to lay a pipe line beneath the said lands?



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8. There is one issue which had been raised by Mr.N.Manoharan

learned counsel for the respondents that the appellant herein had earlier sought similar permission to draw water from the lands which were in the possession of the appellant but situated in S.No.112/2A, and permission had been granted to the appellant to draw water from that particular land to the land where the appellant was actually carrying on agricultural activities. But the appellant had sold that particular piece of land to one Paavaiammal and later acquired two cents of land in S.No.112/2A and had dug a bore well in that particular land and again filed an another application seeking permission to draw water from that particular land to the land where the appellant was carrying on agriculture. By the order of the District Collector dated 09.09.2005 in Mu.Mu.125/05 A1 such permission was rejected. This rejection order has been pointed out by the learned counsel Mr.N.Manoharan for the respondents was even prior to the institution of the two suits by the appellant and it has been further pointed out that the permission had been rejected had not been brought to the notice of the Court and there is no relief also sought questioning or challenging this particular order of the District Collector.



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9.It is contended by the learned counsel for the respondents that by the examination of this particular order, the course of judgment would have varied in the trial Court. The first appellate court had however considered this particular order and this order had influenced the nature of the decision which the first appellate court had taken, to non-suit the appellant herein in the two suits filed and decree the suits filed by the respondents.

10.This Court had sought for a report from the jurisdiction Tahsildar about the land as on date. A report had been forwarded and it is contended that the appellant is now in possession of the land in S.No.113/2 for which originally permission was sought and permission had been rejected. But now there is a bore well which had been put up by the appellant. It had however been contended on behalf of the official respondents/District Collector that neither has permission been granted nor has the earlier order dated 09.09.2025 has been re-visited by the District Collector. It effectively mean that the order still binds the appellant herein.



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11.Ms.Zeenath Begum, the learned counsel for the appellant however made a plea that notwithstanding the order of the year 2005, the appellant may be given permission to apply again seeking permission to draw water from the bore well in S.No.113/2. But, this would only indicate that the District Collector is placed in a position where he has to review the earlier order passed by him and the right and authority of that official to do so is questionable. But as pointed out by the learned counsel for the appellant, the Court cannot prevent an application being filed seeking permission, but could only place a safeguard, that if any such application is filed, the respondents in the appeals, more particularly, the plaintiff in O.S.No.161 of 2006 must be put on notice. Similarly, any other land owner in the area who would be affected by the drawing of the water by the appellant should also be put on notice. The order of the District Collector dated 09.09.2025 had been passed on the grounds that the earlier permission granted for S.No.112/5 had not been utilized by the appellant and that particular land had been sold and therefore, permission again sought for S.No.113/2 has to be rejected.

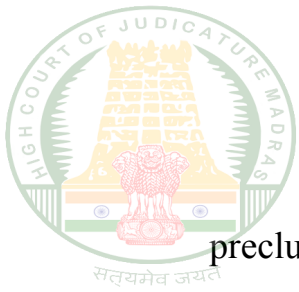


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12.This Court has not been placed with the facts as to the lay of the land to determine as to what damage or harm would be caused to the surrounding lands if a pipeline is laid. The jurisdictional Revenue Authorities would be best placed to take a decision on that aspect, but they cannot take a decision without giving an opportunity to those who raise objections to be heard. It is for these reasons that this Court has struck a middle path over the entire issue and I have not dealt deeply into the facts of the case and reasons which prevailed in the mind of the learned Principal District Munsif to grant a decree for the appellant and for the Additional District Munsif at Bhavani to non-suit the appellant.

13.The substantial questions of law on which the second appeals had been admitted, primarily also revolve around the grant of permission to lay a pathway. The first substantial question of law was that there was an earlier judgment in O.S.No.2 of 2005 which was held to be binding on the appellant and it was held that the appellant was not a party to that particular suit. Section 11 of the CPC places a stipulation that if a former suit is agitated by the same party and if a final decision is given, then, it would



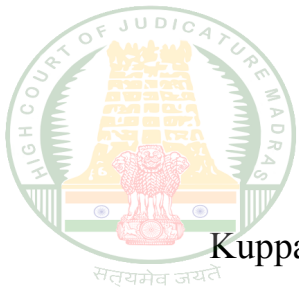
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preclude the same party re-agitating the same issue again. But, the provision also provides that any party who would agitate in the same capacity subsequently, would also be bound by the earlier decision.

14.The second substantial question of law is that the respondents, having conveyed their land to the Government for the formation of a road could raise an objection for laying of underground pipeline. That is an issue on fact. On that particular issue, I would defer place an obligation to the Revenue Authorities to take a decision whether laying of the underground pipeline by the appellant would directly affect the respondents/land of the respondents/land of the surrounding land owners. It is for that reason, this Court has addressed the grievances raised by the appellant in the aforesaid manner.

15.The three second appeals are therefore disposed of by issuing the following directions,

(i)the appellant may, after exercising due caution apply again seeking a permission to draw water from the bore well in S.No.113/2 in



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Kuppandampalayam Village, to the lands of the appellant where the appellant is carrying on agriculture.

(ii)when any such application is received by the Revenue Authorities, they must and they can never withdraw from this particular obligation to issue notice to the respondents in the second appeals and also to every other lands owner in the surrounding area and afford necessary opportunity to them to raise objections.

(iii) Thereafter, the survey of the land through which the pipeline would go must also be taken and such survey should also be done in the presence of all the contesting parties.

(iv)after completing all these exercises and after examining the objections raised, a decision could be taken to grant or not to grant permission. The earlier decision of the District Collector, dated 09.09.2025 may not apply directly on the minds of the authority, who would take a decision afresh, but could be referred to before any decision is taken. The



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view which the Courts had taken in the three suits mentioned may also be

examined by the authorities before a decision is taken. No costs.

Consequently, connected miscellaneous petitions, if any, are also closed.

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29.08.2025

Index: Yes/No

Internet: Yes/No

Speaking order: Yes/No

To:

1.The Additional District Court - Fast Track Court No.4
Bhavani.

2.The Principal District Munsif Court,
Bhavani.

3.State of Tamil Nadu rep.by its
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