



S.A.No.537 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 25.11.2025

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

S.A. No. 537 of 2014 and
M.P.No.1 of 2014

1. Kanagaraj
2. Marimuthu
3. Ambika
4. Reginal
5. R.Vijayakumar
6. S.Velayutham
7. P.Sekar
8. Saraswathy
9. Srinivasan
10. Kanagavalli
11. Manivannan
12. Poongavanammal
13. G.Balaji
14. Saranya
15. A.Jayakumar
16. A.Saravanan

... Appellants

Versus

1. Devanathan
2. Dhamaodharan
3. Thiyagarajan
4. Vinodh (Died)
5. The Commissioner
Corporation of Chennai
Park Town, Chennai – 600 003.
6. The District Collector of



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Chennai District
Singaravelar Maaligai
Chennai – 600 001.

7. A.P.Vimala

8. Lathika

9. Mahitha

...Respondents

PRAYER in S.A.: Second Appeal filed under Section 100 of the Civil Procedure Code against the judgment and decree dated 26.11.2013 made in A.S.No.432 of 2012 on the file of the XVIII Additional District and Sessions Judge, Chennai, confirming the judgment and decree dated 20.06.2011 made in O.S.No.1457 of 2001 on the file of the VII Assistant Judge, City Civil Court, Chennai.

PRAYER in C.M.P.: Petition filed under Order 39 Rules 1 and 2 r/w. Section 151 of Civil Procedure Code to grant an order of interim injunction restraining the respondents 1 to 4 herein, their men, agents, servants or anybody claiming through or under them from putting up compound wall across the public road in the suit schedule property, forming the subject matter of the decree in suit O.S.No.1457 of 2001 on the file of the Court of the VII Assistant Judge, City Civil Court, Chennai and as confirmed in appeal in A.S.No.432 of 2012 on the file of the Court of the XVIII Assistant Judge, City Civil Court, Chennai.



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APPEARANCE OF PARTIES:

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For Appellant : Mr.T.Dhanasekaran

For Respondents : Mr.P.Sidharthan for R1 to R3
M/s.K.Aswini Devi for R5
Mr.B.Tamilnidhi
Additional Government Pleader for R6
R4 - died

J U D G M E N T

Heard.

2. This Second Appeal is directed against the judgment and decree dated 26.11.2013 made in A.S.No.432 of 2012 on the file of the XVIII Additional Judge, City Civil Court, Chennai, confirming the judgment and decree dated 20.06.2011 passed in O.S.No.1457 of 2001 by the VII Assistant Judge, City Civil Court, Chennai whereby the plaintiffs filed the suit seeking a declaration that the suit road is a public road and for a consequential injunction.

3.The plaintiff are the appellants in this appeal. For the sake of convenience, the parties will be referred as they stood in the trial court.

4. The plaintiffs filed the suit for a declaration that the schedule



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property, described as “New Street / Mahalinga Street” situate at Sri Sakthi Nagar, Arumbakkam, Chennai, is a public road, and for a consequential permanent injunction restraining defendants 1 to 4 from putting up any construction or obstructing the same. They claimed that the residents of Sri Sakthi Nagar and Balavinayagar Nagar have been using the said road for more than 25 years and that electricity and sewer lines have been laid beneath it.

5. The Defendants contested the suit contending that the suit property forms part of the patta land of one Mahalinga Achari, who, under an approved sub-division plan dated 15.03.1991, carved out a 20 feet wide private street within his land for the exclusive use of four plot owners including defendants 1 to 4. They relied upon the recitals in their title deeds, the lay-out plan and earlier decrees in O.S.No.2700 of 1993 and O.S.No.14228 of 1996 which confirmed by the Appeals treating the suit passage as a private pathway.

6. The defendants also filed Ex B25 which is the written statement in O.S.No 14228 of 1996 of the 5th defendant/Corporation of Chennai in this suit wherein the Corporation has categorically stated that the suit



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property is only a private passage, that it has not been handed over to the Corporation, that it is maintained by the owners themselves and that the Corporation has nothing to do with the same.

7. The trial court, on appreciation of the oral and documentary evidence including the Advocate-Commissioner's report and plan (Exs.C1 & C2), held that the plaintiffs failed to establish that the suit property is a public road; that there is no material to show any dedication or vesting of the land in favour of the Corporation; and that the earlier decrees and the Corporation's own pleadings indicate that the passage is a private street reserved for the benefit of four plot owners. The suit was accordingly dismissed.

8. The first appellate court re-appreciated the evidence and concurred with the findings of the trial court on finding that strip is part of private patta land, left as a 20-ft internal common passage for four western plots, not a public road. It relied on the Commissioner's report and plan, which show the lane between the houses with utilities and clearly state there is no Corporation road in the schedule property. The court also relied on earlier cases over the same strip and the



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Corporation's written stand that it is a private passage.

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9. Here and Now, both the trial Court and the first appellate Court, on an elaborate consideration of the oral and documentary evidence, concurrently held that the suit road is a private road and not a public thoroughfare, and accordingly negatived the reliefs sought. In the present Second Appeal, the appellant has merely reiterated the factual grounds already addressed and rejected by the Courts below. A reading of the memorandum of grounds reveals that the so-called “substantial questions of law” are nothing but a repetition of factual disputes, without even a semblance of a legal issue, much less a substantial question of law as mandated under Section 100 CPC.

10. It is well-settled that the jurisdiction of this Court under Section 100 CPC is confined to cases where the findings of the Courts below are perverse, contrary to settled principles of law, *or* based on no evidence. This Court cannot reassess or re-appreciate evidence merely because another view is possible. The appellant has not pointed out any perversity, misreading of evidence, improper exercise of discretion, or



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misapplication of legal principles by the Courts below.

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11. Upon a careful and independent scrutiny of the entire records, this Court finds that the concurrent findings are based on proper appreciation of pleadings, cogent analysis of evidence, and correct application of legal principles relating to public and private roads. The conclusions reached by both Courts are neither arbitrary nor unreasonable. There is no material to show that the findings suffer from any infirmity warranting interference by this Court in the limited scope of a Second Appeal. Accordingly, no substantial question of law arises for consideration.

12. In view of the above discussion, the Second Appeal stands dismissed at the admission stage itself. There shall be no order as to costs. Consequently, the connected miscellaneous petition, if any, stands closed.

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Index: Yes/No
Speaking Order /Non-speaking order



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To

- 1.The XVIII Additional District and Sessions Judge, Chennai
- 2.The VII Assistant Judge, City Civil Court, Chennai.
3. The Section Officer, V.R.Records, Madras High Court.



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DR. A.D. MARIA CLETE, J

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