



WEB COPY



SA NO. 852 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-02-2025

CORAM

**THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI**

Second Appeal No. 852 of 2024

----

P.T. Loganathan  
S/o. K.P. Thangaraj,  
11, Pumping Station Road, 2nd Street,  
Thirunagar Colony,  
Erode 3.

2.D.Baskaran,  
S/o. Dharmalingam,  
9/1, S.R.T. Milk Dairy  
Manalmedu Street,  
Erode – 1  
[On behalf of resident of Erode Corporation]

...Appellants

Versus

1. State of Tamil Nadu  
Rep by its District Collector, Erode District,  
Perundurai Road, Erode.

2. The Divisional Engineer  
State Highways Department,  
Moolapalayam, Poondhurai Road, Erode.

3. The Commissioner  
Erode Corporation, Piraf Road, Erode.

4. The Superintendent of Police  
Erode District, Gandhiji Road, Erode

5. T. Aryapatta  
S/o. Dwarkanathan, No.10, Bharatidasan St,  
Teachers Colony, Erode 11.

..Respondents



SA NO. 852 of 2024

Prayer: Second Appeal filed under Section 100 of Civil Procedure Code, to set aside the Judgment and Decree dated 15.03.2023 made in A.S.No. 10 of 2021 on the file of I Additional Sub Judge, Erode in confirming the judgment and decree dated 06.12.2019 made in O.S.No. 21 of 2015 on the file of Principal District Munsif Judge, Erode.

For Appellants : Mr.C.Prabakaran  
For RR 1, 2 & 4 : Mr.R.Siddharth,  
Additional Government Pleader  
For R3 : Mr.M. Rajamathivanan  
For R5 : Mr.Senthil

----

### **JUDGMENT**

Heard both sides and perused the materials available on record.

2. Mr.C.Prabakaran, learned Counsel for the appellants and Mr.R.Siddharth learned Additional Government Pleader for the Respondent Nos.1, 2 and 4 and Mr.M. Rajamathivanan, learned Counsel for the 3<sup>rd</sup> respondent and Mr.Senthil, learned Counsel for the 5<sup>th</sup> respondent are present.



SA NO. 852 of 2024

3. The appellants 1 & 2 and 5<sup>th</sup> respondent herein are the plaintiffs and they have filed the suit in O.S.No.21 of 2015 on the file of Principal District Munsif Court, Erode, for mandatory injunction against the respondents/defendants. After perusing the records, the Trial Court dismissed the suit by Judgment and Decree dated 06.12.2019. Aggrieved by the findings of the Trial Court, the plaintiffs had preferred an appeal in A.S.No. 10 of 2021 on the file of I Additional Sub Judge, Erode, and the same was dismissed on 15.03.2023. Aggrieved by the same, the plaintiffs have come forward with the present Second Appeal.

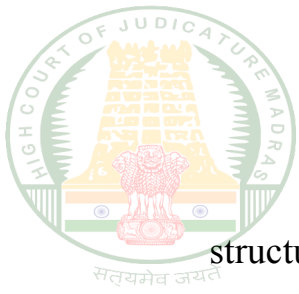
4. On perusal of the records, it seen that as per the earlier order of this Court dated 16.12.2024, the learned Counsel for the appellants contended that before the Courts below, the respondent/State had contended that the encroachments had already been removed. Based on this contention, findings were rendered in favour of the respondent/State, and the claim made by the appellants/plaintiffs was dismissed. However, the learned Counsel for the appellants submitted that, as of now, encroachments is going on and the appellants have also produced some photographs as evidence. It was further contended that after the earlier



SA NO. 852 of 2024

removal of the encroachments, the area was once again encroached upon by putting up temporary shops.

5. Today, when the matter came up for hearing, the learned Counsels for the Respondent Nos.2 & 3 filed their status report dated 10.02.2025, wherein, it has been stated that the encroachments in the areas from Panneerselvam Park to the Clock Tower were removed by giving proper notice on 16.09.2015. The roadside encroachments are being removed from time to time to control traffic congestion and prevent accidents in Erode City and encroachment work was carried out on 12.11.2024 in the shop streets from Erode Panneerselvam Park via Manikoundu to Mariamman Temple bordering Sakthi Road, Corporation Officials and Highways Department Officials jointly removed the encroachments. The Highways Department states that the encroachments will be removed in the first week of every month in the areas of Erode Manikoundu, Nethaji Road, RKV Road, Meenakshi Sundaranar Road, Mettur Road, EVN Road and Gandhiji Road. All the encroachments are those made by small traders who earn their living on a daily basis and there are no permanent encroachments except for permanent commercial



SA NO. 852 of 2024

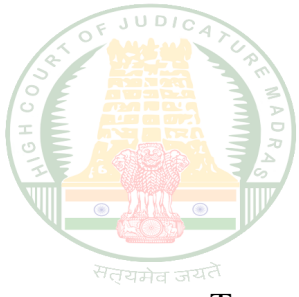
structures. Moreover, these temporary encroachments are also being removed from time to time.

6. However, after filing the suit, encroachments were removed by the third respondent/Commissioner, Erode Corporation, Piraf Road, Erode. To that effect, the learned Counsels for the Respondent Nos.2 and 3 have filed their Status Report along with photographs. Accordingly, as on date, there is no permanent structure/encroached on the road side areas. The Status Report filed by the Respondent Nos.2&3 is recorded and the same shall form part of this Judgment. The Respondents concerned are directed to make a periodical inspection i.e., further encroachments in the said encroached area as and when required.

7. Accordingly, the Second Appeal is disposed of. There shall be no order as to costs.

**14.02.2025**

MSM



SA NO. 852 of 2024

WEB COPY

To

1. The I Additional Sub Judge, Erode.
2. The Principal District Munsif Judge, Erode.
3. The District Collector,  
State of Tamil Nadu  
Erode District, Perundurai Road, Erode.
4. The Divisional Engineer  
State Highways Department,  
Moolapalayam, Poondhurai Road, Erode.
5. The Commissioner  
Erode Corporation, Piraf Road, Erode.
6. The Superintendent of Police  
Erode District, Gandhiji Road, Erode



WEB COPY



SA NO. 852 of 2024

**T.V.THAMILSELVI, J.**

MSM

SA No. 852 of 2024

14.02.2025