



S.A. No.12 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED :08.01.2025

CORAM

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

S.A.No.12 of 2025
and
CMP.No.275 of 2025

B.Vijayakumar

...appellant

Vs

Dakchinamoorthy

... Respondent

PRAYER: Second Appeal filed Under Section 100 of the Civil Procedure Code, against the Judgment and decree passed in A.S.No.13 of 2024 dated 19.08.2024 on the file of II Additional City Civil Court, Chennai, in confirming the decree & judgment passed in O.S.No.2704 of 2022, dated 20.02.2023 on the file of XX Assistant City Civil Court, Chennai.

For Appellant : Mr.S.Arokia Mani Raj



S.A. No.12 of 2025

JUDGMENT

WEB COPY

The appellant has filed this Second Appeal against the judgment and decree passed in A.S.No.13 of 2024 dated 19.08.2024 on the file of II Additional City Civil Court, Chennai, in confirming the decree & judgment passed in O.S.No.2704 of 2022, dated 20.02.2023 on the file of XX Assistant City Civil Court, Chennai.

2. Heard Mr.S.Arokia Mani Raj, learned counsel for the appellant, and perused the materials available on record.

3. For convenience, the parties herein are referred to as they were ranked in the suit.

4. The plaintiff/appellant approached the Court seeking relief in the form of a mandatory injunction to demolish and remove the construction erected by the defendant on Door No. 45/35, Avathanam Ramaswamy Street, Old Washermenpet, Chennai-600 021.



S.A. No.12 of 2025

5. Before the trial Court, the appellant / plaintiff did not seek any relief for a declaration concerning easementary rights, even if they were being exceeded. Additionally, the suit property was not properly identified. Instead, the appellant / plaintiff directly prayed for a mandatory injunction.

6. The trial Court dismissed the suit on the grounds that the plaintiff failed to prove the existence of any easementary rights. The Court observed that without a claim for a declaratory relief, filing a suit directly for a mandatory injunction as such is not maintainable.

7. Accordingly, this Second Appeal is dismissed as devoid of merits. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

08.01.2025

Index : Yes/No
Neutral Citation : Yes/No
Speaking/Non Speaking order
rri

3\5



S.A. No.12 of 2025

WEB COPY

To

1. The II Additional City Civil Court, Chennai.
2. The XX Assistant City Civil Court, Chennai.
3. The Section Officer, VR Section, High Court of Madras.



WEB COPY



S.A. No.12 of 2025

T.V.THAMILSELVI, J.

rri

S.A.No.12 of 2025
and
CMP.No.275 of 2025

08.01.2025