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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2025

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

S.A.(MD)No. 392 of 2012

1. The Revenue Inspector,
Pon Amaravathy.

2. The State of Tamil Nadu,
Represented by its District Collector,
Pudukottai.

...Appellants

Vs.

Sethuraman Chettiar (Died)

2. Muthu Chettiyar

... Respondent

[2nd respondent is brought on record as Legal heir of the deceased sole respondent vide Order of this Court, dated 06.01.2025]

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, to set aside the Judgment and Decree of the Sub Court, Pudukottai, dated 29.04.2002 made in A.S No.33 of 2000 reversing the Judgment and decree, dated 28.04.2000



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made in O.S.No.160 of 1996 on the file of the District Munsif Cum Judicial Magistrate Court at Thirumayam.

For Appellants : Mr.C.Satheesh,
Government Advocate

For R-2 : Mr.J.Barathan, for
Mr.M.Rajarajan

JUDGMENT

This Second Appeal is filed by the defendants in the suit to set aside the Judgment and Decree dated 29.04.2002 passed in A.S No.33 of 2000 on the file of Sub Court, Pudukottai, reversing the Judgment and decree, dated 28.04.2000 passed in O.S.No.160 of 1996 on the file of the District Munsif Cum Judicial Magistrate Court at Thirumayam.

2. The defendants in the suit are the appellants herein and the plaintiff in the suit is the respondent. For the sake of convenience, the parties shall be referred to as plaintiff and defendants as per the ranking in the suit.



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3. The plaintiff has filed a suit in O.S.No.160 of 1996 inter alia praying for permanent injunction restraining the defendants from interfering in any manner with the peaceful possession and enjoyment of the suit property. The suit was dismissed on 28.04.2000. Aggrieved over the said dismissal, the plaintiff has preferred the appeal suit in A.S No.33 of 2000 and the same was allowed in favour of the plaintiff. Aggrieved over the same, the Government has preferred the present Second Appeal.

4. The contention of the plaintiff is that the disputed site was classified as Natham. If it is classified as Natham, then the government is not having any power to disturb the possession of the land. But the Government has disputed the very classification itself. If is so, then the prayer of the plaintiff ought to be declaration and injunction. Since the plaintiff has filed the suit for bare injunction only, then liberty ought to be granted for the plaintiff to amend the prayer for declaration and injunction.



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5. Accordingly, this Second Appeal is disposed of and the case is remitted back to the Trial Court. The plaintiff is at liberty to amend the pleadings and prayer and to file additional documents to prove his case. The Learned District Munsif Cum Judicial Magistrate at Thirumayam, is directed to complete the suit within a period of One year from the date of receipt of a copy of this Judgment. Till such time, the Government shall not disturb the possession of the plaintiff. No costs.

24.01.2025

Index : Yes / No
NCC : Yes / No

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TO:

1. The Sub Court, Pudukottai.
2. The District Munsif Cum Judicial Magistrate Court at Thirumayam.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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Judgment made in
S.A.(MD)No. 392 of 2012

Dated:24.01.2025