



S.A.(MD)No.366 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.08.2025

CORAM

THE HON'BLE DR. JUSTICE A.D. MARIA CLETE

S.A.(MD)No.366 of 2025

and

C.M.P.(MD)No.12770 of 2025

Rajagopal,
S/o. Kesavadoss,
No.33/16, Vengalanayakan Street,
Thiruvaiyaru Town and Munsif,
Thanjavur District.

... Appellant

Vs.

Girija,
W/o.Babu,
No. 2, Tamilmettu Street,
Thiruvaiyaru Town and Munsif,
Thanjavur District.

... Respondent

PRAYER : Second Appeal filed under Section 100 Cr.P.C., against the Judgement and decree passed in A.S.No.19 of 2022 dated 22.04.2025 on the file of the Principal Sub-Court, Thanjavur reversing the Judgement and decree passed in O.S.No.109 of 2015 dated 21.12.2018 on the file of District Munsif Court, Thiruvaiyaru.

For Appellant : Mr.R.Rajaraman, Advocate



WEB COPY



S.A.(MD)No.366 of 2025

JUDGMENT

Heard.

2. The first appellate court, in A.S. No. 19 of 2022, reversed the judgment and decree of the trial court in O.S. No. 109 of 2015, which had granted a decree of permanent injunction in favour of the plaintiff.

3. The suit was one for bare injunction. The defendant did not dispute the plaintiff's title or possession over the suit property. In the plaint, the plaintiff averred that the cause of action arose on 04.07.2015, when the defendant allegedly attempted to interfere with his possession. This allegation was specifically denied by the defendant. In such circumstances, the burden squarely lay on the plaintiff to establish the alleged act of interference. No evidence was adduced to discharge this burden.

4. It is trite that a cause of action must be real and not illusory. When the defendant neither disputes the plaintiff's title or possession nor



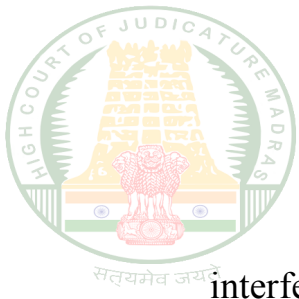
S.A.(MD)No.366 of 2025

WEB COPY

asserts any right over the suit property, the plaintiff must nevertheless establish the alleged act of interference. While it is correct that even a bona fide apprehension of interference may, constitute a cause of action, such apprehension must rest on a tangible foundation. In the present case, when the defendant neither claimed any right over the suit property nor denied the plaintiff's possession, there was no reasonable basis for such apprehension.

5. The evidence further shows that the defendant's property lies to the west of the suit property, separated by a lane. This circumstance makes it evident that there is no boundary dispute between the parties. The trial court, however, decreed the suit solely on the ground of possession, without determining whether the cause of action pleaded in the plaint had been proved.

6. The first appellate court, upon an independent appreciation of the evidence, rightly found that the alleged act of interference on 04.07.2015 was not established and, therefore, dismissed the suit. The settled principle of law is that where there is no dispute or threat of



S.A.(MD)No.366 of 2025

WEB COPY

interference, an injunction cannot be granted merely for the asking. In ***Subba Reddiar v. Vasanthammal and another***, reported in **2000 (3) CTC 200**, this Court held that when the defendant disclaims title and possession of the suit property, the relief of injunction need not be granted.

7. At the time of arguments, learned counsel for the plaintiff contended that there is no lane between the properties of the plaintiff and the defendant, as alleged by the latter. In the present case, it is unnecessary to adjudicate upon the existence or otherwise of such a lane. The first appellate court, however, relying on an admission made by the plaintiff during cross-examination, recorded a finding as to the existence of the lane. Be that as it may, the present suit pertains solely to the suit property as described in the plaint schedule and not to any lane in question.

8. It is not in dispute that the defendant has categorically admitted the plaintiff's title and possession over the suit property, while specifically denying the allegation of interference on 04.07.2015. In



S.A.(MD)No.366 of 2025

WEB COPY

these circumstances, the burden squarely rested on the plaintiff to prove that his possession was in fact disturbed by the defendant. In the instant case, the plaintiff has failed to discharge this burden, as rightly recorded by the first appellate court.

9. The submission of learned counsel for the plaintiff that a decree could be granted on the basis of admission under Order XII Rule 6 CPC is misconceived in the present factual matrix. While the defendant admitted the plaintiff's title and possession, he expressly denied the alleged act of interference, which constitutes the core of the cause of action. As the first appellate court correctly observed, the plaintiff has not proved the specific allegation in the plaint that on 04.07.2015 the defendant disturbed his possession. When such a foundational fact is not established, the suit, resting entirely on that cause of action, necessarily fails. The submissions made by learned counsel are therefore untenable.

10. In the present case, no substantial question of law arises for consideration. The questions formulated in the memorandum of appeal are not substantial in nature but relate to settled legal principles.



S.A.(MD)No.366 of 2025

WEB COPY

11. In the result, the Second Appeal is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

NCC : Yes / No
Internet : Yes / No
Index : Yes / No

11.08.2025

skn

To

- 1.The Principal Sub-Court,
Thanjavur.
- 2.The District Munsif Court,
Thiruvaiyaru.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



S.A.(MD)No.366 of 2025

DR.A.D. MARIA CLETE,J.

skn/LS

SA.(MD)No.366 of 2025

11.08.2025