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S.A.No.156 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A.No.156 of 2020
and C.M.P.No.3366 of 2020

1.Ramachandran

2.Nirmala

3.Parthasarathy @ Ramesh

4.Kannapiran

5.Nalini

... Appellants

vs.

1.Anbalagan

2.Devaraj

3.Ranganathan

4.Ramasamy

5.Elumalai

... Respondents

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the decree and judgment dated 18.10.2019 made in A.S.No.2 of 2018 on the file of the Subordinate Judge, Gingee in reversing the decree and judgment dated 23.12.2016 made in O.S.No.423 of 2007 on the file of the District Munsif Court, Gingee.



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For Appellants : Mr.G.Ethirajulu

For Respondents : No Appearance

J U D G M E N T

The plaintiffs in the suit are the appellants.

2. The plaintiffs filed a suit in O.S.No.423 of 2007 on the file of the District Munsif Court, Gingee, for mandatory injunction directing the defendants to remove the Mud Road formed in the suit properties and restore the same to its original position as a cultivable land. The plaintiffs also sought for permanent injunction restraining the defendants from interfering with their possession over the suit properties. The Trial Court decreed the suit and the appeal filed by the respondents/defendants 1 to 4 was allowed by the First Appellate Court. Aggrieved by the reversing judgment, the plaintiffs have come before this Court.

3. According to the plaintiffs, the suit properties belonged to them under Settlement Deed executed by their Grandfather-Munusamy Pillai and the subsequent Partition dated 20.08.1990. The Patta for the suit properties in S.Nos.15/1A, 15/1B and 15/3 also stands in the name of the plaintiffs. It is the case of the plaintiffs that the residential houses of the defendants



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situated on the Eastern Side of the suit properties beyond the lake situated in S.No.14. The Manalapadi Village situated on the Western Side of the suit properties and there was no Cart Track through the suit properties connecting the Manalapadi Village and the properties of the defendants from the Chinna Ponnampoonchi Village. It is stated that the 2nd plaintiff's property situated in Survey No.1/2 was partially acquired and a Pucca Metal Road was laid in the said survey number to enable the defendants to reach Manalapadi Village. Since the metal road laid by the Government was circuitous one, the defendants by using their influence and power trespassed into the portion of the suit properties and laid a mud road in spite of objection of the plaintiffs. Therefore, the instant suit has been filed by the plaintiffs seeking mandatory injunction to remove the mud road laid by the defendants and to restore the suit property to its original position. The plaintiffs also sought for bare injunction.

4. The defendants filed a written statement and denied the averment in the plaint that there was no Cart Track in the suit properties. It was their specific case that as per the old Certified Copy of FMB marked as Ex.B1, there was a detailed Cart Track in the suit properties and the plaintiffs by using their influence obtained Revenue Map later, as if there was no Cart



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Track in the suit properties. Hence, by relying on the old FMB, the defendants contended that there is a Cart Track in the suit properties and therefore, they sought for dismissal of the suit.

5. The Trial Court based on the pleadings of the parties, formulated the following issues for consideration:-

1. வழக்குச் சொத்தில் அமைந்துள்ள மண் பாதையானது, பிரதிவாதிகளால் 2007-ஆம் ஆண்டில் புதிதாக அமைக்கப்பட்ட ஒன்றா?
2. வழக்கில் கோரியுள்ளவாறு செயலுறுத்துக் கட்டளை மற்றும் நிரந்தர தடையுத்தரவு பரிகாரங்கள் வாதிகளுக்கு கிடைக்கத்தக்கதா?
3. வாதிகளுக்கு வேறு என்ன பரிகாரம் கிடைக்கத்தக்கது?

6. Before the Trial Court, the plaintiffs 2 and 5 have been examined as PW.1 and PW.2. One Ex-President of the Chinnam Ponnampoonchi Village Panchayat was examined as PW.3. On behalf of the plaintiffs, 28 documents were marked as Exs.A1 to A28. On the side of the defendants, the defendants 1 and 3 were examined as DW.1 and DW.2 and one independent witness was examined as DW.3. On behalf of the defendants, one document was marked as Ex.B1.

7. The Trial Court on appreciation of oral and documentary evidence available on record, came to the conclusion that the Cart Track detailed in



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Ex.B1 was subsequently removed at the time of resurvey and hence, relying on the new FMB produced by the plaintiffs and marked as Ex.A26, the Trial Court decreed the suit as prayed for. Aggrieved by the said judgment and decree, the defendants filed first appeal in A.S.No.2 of 2018 before the Sub Court, Gingee. The First Appellate Court came to the conclusion that Ex.B1 prepared in the year 1979 under UDR Scheme was published in Tamil Nadu Government Gazette and there was no evidence available on record to come to the conclusion that any changes in the Ex.B1 was made by issuing proper notice in Government Gazette and therefore, the First Appellate Court ignored Ex.B1 filed by the defendants and reversed the findings of the Trial Court. As a consequence of finding by the First Appellate Court, the suit dismissed. Aggrieved by the said judgment and decree, the plaintiffs have come before this Court.

8. At the time of admission, this Court formulated the following substantial questions of law, by order dated 18.02.2020:-

“(1) Is it not the lower appellate Court misconstrued Ex.B1 thereby erred in holding that there was a cart track from No.89, Odiyattur to No.91, Manalpadi Village through S.Nos.10, 11, 13, 14 and 15 to reach Manalpadi to substantiate its finding without noting the existence of pucca tar road as per Ex.A27 connecting Odiyattur through S.Nos.11, 10, 6 and 1 to reach Manalpadi?”



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(2) Whether the lower appellate Court having held that Ex.B1 and Ex.A26 were issued only UDR Scheme after supplementary Survey can rely upon one of the documents to set aside the decree and judgment of the trial Court?

(3) Whether the lower appellate Court is justified in holding that document produced by the defendants in Ex.B1 of the year 1984 is contrary to the document produced by the plaintiffs in Ex.A26 dated 07.02.1980 in absence of any oral evidence let in by Revenue Officials who are the competent authority to speak about the said document instead of remitting the matter to the trial Court to take evidence in respect of the said two documents? ”

9. The learned counsel appearing for the appellants would submit that both the plaintiffs and defendants produced Revenue Plan certified by the Competent Revenue Official and there is a conflict between the plan produced by the plaintiffs and defendants with regard to the existence of Cart Track in the suit properties. In such circumstances, only the Revenue Officials can clarify the dispute in the revenue document. Therefore, the finding rendered by the First Appellate Court based on the old FMB overlooking the new FMB is untenable in law. The learned counsel also relied on the judgment of this Court in **Chinna Poojari vs. K.Ramsami** (S.A.No.387 of 1995, dated 04.04.2007).



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10. A perusal of the FMB marked by the plaintiffs as Ex.A26 would reveal that it was prepared on 08.02.1980 and the same was certified by Head Quarters Zonal Tahsildar, Gingee. In the new FMB produced by the plaintiffs, there is no indication of Cart Track running through the suit properties situated in S.Nos.15/1A, 15/1B and 15/3.

11. On the other hand, Ex.B1 is the Revenue Plan for the Chinna Ponnamm Poondi Village, which was prepared in the year 1979 based on the supplementary survey that had been taken place under UDR Scheme. The said plan was published in District Gazette of South Arcot District on 30.09.1980. A perusal of the Ex.B1 would indicate that there is a Cart Track running through S.No.15 leading to the back of Tangal Lake situated on the Eastern Side. Ex.B1 is the Village Plan, wherein the Cart Track through S.No.15 is detailed. However, Ex.A26 is the enlarged plan for S.No.15, in which no Cart Track is indicated by dotted manner. Therefore, there is a serious dispute in the Revenue Plan produced by the parties with regard to the existence of Cart Track. The discrepancy between Ex.A26 and Ex.B1 can be resolved only by examining Competent Revenue Officials.



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12. The First Appellate Court merely observed that Ex.B1 was published in Government Gazette and therefore, the same shall be preferred to Ex.A26. As mentioned earlier, Ex.B1 is the Map for the entire Village, whereas the Ex.A26 is the enlarged Map for S.No.15. Why the detailed Cart Track mentioned in Ex.B1 is not found place in enlarged Map Ex.A26 is not clear. Therefore, the serious dispute or conflict between the two documents can be resolved only by examining the Revenue Officials. The First Appellate Court relied on Ex.B1 and dismissed the suit filed by the plaintiffs. Without resolving the conflict between the documents by examining the Revenue Officials, the Court cannot rely on one document and adjudicate the matter. Therefore, this Court feels an opportunity shall be given to the parties to examine the Revenue Officials and based on their evidence, the issue with regard to the existence of Cart Track shall be resolved. Accordingly, the Substantial Questions of Law Nos.1 to 3 framed at the time of admission are answered in favour of the appellants and against the respondents.

13. In view of the answer to the substantial questions of law, the judgment and decree passed by the First Appellate Court is set aside and the matter is remanded back to the file of Subordinate Court, Gingee, with a



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direction to permit the parties to examine the Competent Revenue Officials to clear the discrepancy between the Ex.A26 and Ex.B1. The First Appellate Court can either take evidence on its own or call for a finding from the Trial Court. The First Appellate Court/Subordinate Court, Gingee shall endeavour to dispose of the appeal within a period of six months from the date of receipt of copy of this judgment.

14. In Nutshell:-

- (i) The Second Appeal stands allowed and the matter is remanded to the file of First Appellate Court with above directions.
- (ii) In the facts and circumstances of the case, there will be no order as to costs.
- (iii) Consequently, the connected civil miscellaneous petition is closed.

05.03.2026

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

1.The Subordinate Judge, Gingee.

2.The District Munsif Court, Gingee.

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S.SOUNTHAR, J.

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