

(2026) 01 SC CK 1912

In the Supreme Court Of India

Case No : Civil Appeal No. 380-381 Of 2026 (Arising Out Of Special Leave
Petition (Civil) No. Of 2026 Arising Out Of Diary No. 37381 Of 2024)

V.Anima Malar

APPELLANT

Vs

S. Aadhavan & Ors

RESPONDENT

Date of Decision : 20-01-2026

Acts Referred:

Citation : (2026) 01 SC CK 1912

Hon'ble Judges : B.V. Nagarathna, J;Ujjal Bhuyan, J

Bench : Division Bench

Advocate : Sanjay Mani Tripathi, V Elangovan, Gouri Karuna Das Mohanti, Anu Gupta, D Durga Devi, Pranab Prakash, Balaji Subramaniam Aag, G. Indira, P Gandepan, Anurag Kashyap, Anjali Singh, Raniba Pangnila, Akash Kundu

Final Decision : Allowed

Judgement

B.V. Nagarathna, J

Delay condoned.

Leave granted.

2. The appellant herein was arrayed as respondent No.6 in W.P. No.9715/2023. The prayers that were sought by the writ petitioner (respondent No.1 herein) before the High Court, read as under:

"10.1. therefore pray that this Hon'ble Court be pleased to issue a WRIT OF MANDAMUS or any other writ or direction, writ petition praying for an issue of WRIT OF MANDAMUS or any other writ or direction, in the nature of WRIT, directing the respondents 2 to 5 to demolish the unauthorized constructions made by the 6th respondent for an extent of 5.33 cents constructed without building plan approval at Doo No.12, Ariyalur-Thanjavur main Road, Thiumanur, Ariyalur 621 715 in Old Survey No.33/14 D, New Survey No.33 16DIC (as per patta dated 17.09.2020), Thirumaur Village, Ariyalur Taluk and Ariyalur District,

within a time frame as may be filed by this Hon'ble Court and for consequential orders within a time frame as may be fixed by this Hon'ble Court as such further or other orders and thereby render justice."

3. The said writ petition was disposed of by order dated 29.03.2023 without issuance of any notice to respondent No.6 therein/appellant herein.

4. Being aggrieved by the order passed in the said Writ Petition, the appellant herein preferred Review Application No.62/2024 before the High Court. The said Review Petition was also dismissed by the Division Bench of the High Court on 22.07.2024.

5. Learned counsel for the appellant submitted that the appellant as well as respondent No.1 herein are related to each other; that in fact original suit being O.S. No.7/2022 has been filed by respondent No.1 herein, inter alia, as against the appellant herein and is pending adjudication before the learned District Judge, Ariyalur. The reliefs sought for in the said suit read as under:

"a. Pass a preliminary decree for the partition of suit properties 40 cents of land (Item No.02) and 2x2/3 cent [('8' kuzhi) (Item No.03)] house site ("A" Schedule property, mentioned/notified in family arrangement deed dated 26.05.1993) into two equal shares. Allot one share to the plaintiff & the 5th defendant and grant separate possession in the suit properties;

b. Declare that the Settlement Deed dated 15.07.2016 executed by the 1st defendant in favour 2nd & 3rd defendants in Document No.1358/2016 registered at the office of SRO, Kizapazuvur as null and void and not binding on the plaintiff; (Item No.01)

c. Declare that the Settlement Deed dated 08.11.2019 executed by the 2nd and 3rd defendants in favour 4th Defendant in Document No2605/2019 registered at the office of SR,< Kizapazuvur as null and void and not binding on the plaintiff,

d. Mandatory injunction, directing the defendants to demolish and remove the obstruction caused to shops constructed on the 15 feet pathway and access to the plaintiff's house property more fully described as suit item IV and shown as "ABCD" in the rough sketch attached to the plaint.

e. Award cost of the suit, and

f. Such other reliefs as this Hon'ble Court may deem fit and necessary in the circumstances of the case and thus render justice."

6. When the said civil suit is pending adjudication, respondent No.1 herein to shortcut the suit proceedings filed the writ petition and the said writ petition was allowed even without issuance of notice to the appellant herein.

7. Learned counsel for the appellant contended that in the first place the writ petition was not at all maintainable when a full-fledged suit between the parties was pending adjudication before the Trial Court. It was contended that the filing

of the writ petition itself was an abuse of the process of the High Court and of law when the suit was pending adjudication between the parties in respect of the very same property involved both in the civil suit as well as in the writ petition. He, therefore, submitted that the impugned orders may be set aside and the writ petition may be dismissed. Secondly, the impugned orders passed by the High Court are in violation of the principles of natural justice inasmuch as the appellant was not heard in the matter.

8. When we queried learned counsel for respondent No.1 with regard to the pendency of the suit filed by the said respondent as well as filing of the writ petition, he fairly submitted that no doubt a suit was filed and is pending adjudication but the prayers sought for in the writ petition are distinct, although in respect of the very same property. Merely because notice was not issued by the High Court to the appellant herein cannot be a ground for setting aside the impugned order. She therefore submitted that there is no merit in this appeal. In the context of the submissions made by learned counsel for respondent No.1, other respondents also supported the impugned order.

9. In the backdrop of the submissions made by learned counsel for the respective parties, we have perused the prayers sought by respondent No.1 herein in the suit as well as the prayers sought by the very same respondent in the writ petition; the prayers concern the very same property, prayer (d) in the suit and in the writ petition are common. The first respondent herein would not have a shortcut in the adjudication of his case by seeking prayer (d) in the suit in the form of a prayer for Writ of Mandamus in the writ petition. The first respondent could not have agitated this relief before the two forums.

10. We find that the filing of writ petition was an abuse of the process of law. Hence, the writ petition is dismissed and consequently, the impugned orders are also set-aside.

11. These appeals are allowed in the aforesaid terms.

12. We however observe that this order would not come in the way of the suit being tried in accordance with law and on its own merits.

13. All subsequent actions taken by the respondent-authorities pursuant to the orders of the High Court stand quashed.

14. The appellant is at liberty to utilise the suit premises subject to the result of the suit.

15. However, we refrain from imposing any cost on the writ petitioner/respondent No.1 herein.

16. Pending application(s), if any, shall stand disposed of.