

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.02.2015

CORAM:

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

Second Appeal No.1190 of 2014

R.Rathinavelu

.. Appellant/ 4th Plaintiff

-Vs-

Alamelu Ammal (deceased)

1. Papathiammal
2. Balu Mudaliar exparte
3. Rajagopal exparte
4. Gowriammal exparte
5. R.Raghava Naidu exparte
6. M.Thillaiammal exparte
7. M.Muthulakshmi exparte
8. A.K.Santhanam exparte
9. M.Purushothaman exparte
- 10.K.G.Ganapthy exparte
- 11.Kalyani exparte
- 12.S.K.Natarajan Mudaliar exparte
- 13.Kasiammal exparte
- 14.N.M.Niraimathikumar exparte
- 15.K.Sankari Ammal
- 16.K.Sivakumar
- 17.K.Sujatha
- 18.R.Ramachandran
- 19.R.Thiagarajan

.. Respondents (Defendants and Plaintiffs 6,7,8,2 & 3)

SECOND APPEAL filed under Section 100 of Code of Civil Procedure to set aside the decree and judgment dated 10.12.2012 passed in A.S.No.22 of 2008 by the learned III Additional City Civil Judge, Chennai, confirming the decree and judgment dated 30.6.2006 passed in O.S.No.2083 of 1981 by the learned XII Assistant City Civil Judge, Chennai thereby allowing the Second Appeal.

For Appellant : Mr.A.M.Loganathan

For Respondents : ...

J U D G M E N T

The learned Counsel for the appellant submits that he would make an endorsement not pressing this Second Appeal, however, liberty may be given to the appellant to file a suit for partition based on the observations made in paragraph 77 of the judgment of the trial court.

2. So far as the liberty is concerned, since the appellant has got right to file a suit for partition, it requires no permission from this Court. Further for filing such a suit, the dismissal of the present suit will not operate as res judicata.

3. With the above observation, accepting the endorsement made by the learned Counsel for the appellant, the Second Appeal is dismissed as not pressed. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

tsi

To

1. The III Additional Judge, City Civil Court, Chennai.
2. The XII Assistant Judge, City Civil Court, Chennai.
3. The Registrar
City Civil Court,
Chennai

2 ccs to Mr.A.M. Loganathan, Advocate, Sr. 6495

S.A.No.1190 OF 2014

MG (CO)
kk 13/2