

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.02.2015

CORAM:

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

Second Appeal No.1191 of 2014

R.Rathinavelu

.. Appellant/ 4th Plaintiff

-Vs-

1.A.Elumalai @ Deivanambi exparte

2.Andalammal exparte

Alamelu Ammal (deceased)

3. Papathiammal

4. Ramachandran exparte

5. Ramalingam exparte

6. Parthasarathy exparte

7. Lakshmiammal exparte

8. Baladurai exparte

9. Sakuntala Ammal exparte

10.Kamalakannan exparte

11.Jayaraman exparte

12.Venugopal exparte

13.Thothom Ammal exparte

14.P.Gurusamy exparte

15.Sundaram exparte

16.Venkatesa Gounder exparte

17.S.Subramaniam exparte

18.R.Elumalai exparte

19.Kuppammal exparte

20.Suseela exparte

21.Kasiammal exparte

22.Dr.D.Gowri exparte

23.Jayammal exparte

24.R.Devadoss exparte

25.K.Sankari Ammal

26.K.Sivakumar

27.K.Sujatha

R.Kuppusamy Mudaliar (deceased)

Amaravathy Ammal (deceased)

28.R.Ramachandran

29.R.Thiagarajan

.. Respondents/ Defendants

and Plaintiffs 6 to 8 ,1,5,2 & 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.24 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.3521 of 1981 by the learned XII Assistant City Civil Judge, Chennai thereby allowing the Second Appeal.

For Appellant : Mr.A.M.Loganathan

For Respondents : ...

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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

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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. 6494

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