

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.03.2015

CORAM:

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

Second Appeal Nos.240 to 242 of 2012

and

M.P.No.1 of 2012, M.P.No.1 of 2014 and M.P.No.1 of 2015

S.A.No.240 of 2012

Pachiammal .. Appellant/Defendant

-Vs-

A.Kumaravel .. Respondent/Plaintiff

SECOND APPEAL filed under Section 100 of Code of Civil Procedure against the judgment and decree passed in A.S.No.188 of 2006 on the file of the II Additional Subordinate Judge, Salem dated 16.08.2011 in reversing the judgment and decree in O.S.No.1448 of 1996 on the file of the I Additional District Munsif, Salem, dated 01.06.2006.

For Appellant : Mr.V.Raghavachari

For Respondent : Mrs.R.Meenal

- - -

S.A.No.241 of 2012

Pachiammal .. Appellant/Plaintiff

-Vs-

1. A.Kumaravel

2. Prabhavathi

3. Parameswari

.. Respondents/Defendants

SECOND APPEAL filed under Section 100 of Code of Civil Procedure against the judgment and decree passed in A.S.No.186 of 2006 on the file of the II Additional Subordinate Judge, Salem dated 16.08.2011 in reversing the judgment and decree in O.S.No.854 of 2005 on the file of the I Additional District Munsif, Salem, dated 01.06.2006.

For Appellant : Mr.V.Raghavachari

For 1st Respondent : Mrs.R.Meenal

- - -

S.A.No.242 of 2012

A.Bhuvaneswaran

.. Appellant/Plaintiff

-Vs-

1. P.Kumaravel

2. Prabavathi

3. Parameswari

.. Respondents/Defendants

SECOND APPEAL filed under Section 100 of Code of Civil Procedure against the judgment and decree passed in A.S.No.53 of 2007 on the file of the II Additional Subordinate Judge, Salem dated 16.08.2011 in reversing the judgment and decree in O.S.No.368 of 2005 on the file of the I Additional District Munsif, Salem, dated 01.06.2006.

For Appellant : Mr.V.Raghavachari

For 1st Respondent : Mrs.R.Meenal

C O M M O N J U D G M E N T

Pachiammal, the appellant in S.A.No.240 of 2012 is the defendant in O.S.No.1448 of 1996 on the file of the learned I Additional District Munsif, Salem. The respondent Kumaravel is the plaintiff in the suit. That was the suit filed for declaration of title and for recovery of possession and also for damages. The suit was dismissed. As against the same, the respondent filed A.S.No.188 of 2006 on the file of the learned II Additional Subordinate Judge, Salem. By decree and judgment dated 16.08.2011, the lower appellate court allowed the appeal in part and decreed the suit for declaration of title and for recovery of possession, but the claim for damages was dismissed. As against the same, the appellant is before this Court with this Second Appeal in S.A.No.240 of 2012.

2. Pachiammal, the appellant in S.A.No.241 of 2012 is the plaintiff in O.S.No.854 of 2005 on the file of the learned I Additional District Munsif, Salem and the respondents herein are the defendants in the suit. That suit was filed for declaration of title and for permanent injunction. The learned I Additional District Munsif, Salem, by decree and judgment dated 01.06.2006 decreed the suit thereby declaring that the plaintiff is the absolute owner of the suit property and restraining the defendants from in any manner interfering with her peaceful possession and enjoyment of the suit property. As against the same, the respondents herein filed A.S.No.186 of 2006 on the file of the learned II Additional Subordinate Judge, Salem. By decree and judgment dated 16.08.2011, the learned II Additional Subordinate Judge, Salem, allowed the appeal, thereby modifying the decree and judgment of the trial court. The lower appellate court declared that the plaintiff in O.S.No.854 of 2005 is the owner of the property bearing Door No.181,

Sanniasigundu Road, excluding the front portion of the property measuring 22 ½ x 20 feet and the appeal was dismissed in respect of the remaining front portion measuring 22 ½ x 20 feet of the property in Door No.181, Sanniyasigundu Road, Salem. As against the same, the appellant is before this Court with this Second Appeal in S.A.No.241 of 2012.

3. A.Bhuvaneswaran, the appellant in S.A.No.242 of 2012 is the plaintiff in O.S.No.368 of 2005 on the file of the learned I Additional District Munsif, Salem. The respondents herein are the defendants in the said suit. That was the suit filed for declaration of title and for delivery of possession and also for damages. The learned I Additional District Munsif, Salem by decree and judgment dated 01.06.2006 dismissed the suit. As against the same, the appellant herein filed A.S.No.53 of 2007 on the file of the learned II Additional Subordinate Judge, Salem. By decree and judgment dated 16.08.2011, the learned II Additional Subordinate Judge, Salem dismissed the appeal. As against the same, the appellant has come up with this Second Appeal in S.A.No.242 of 2012.

4. All these three suits and the first appeals were heard together and common judgments were delivered. I have heard all the three Second Appeals together.

5. Today, the Appellant in S.A.No.240 of 2012 has come up with M.P.No.1 of 2015 seeking to record compromise and dispose of the appeals in Second Appeal Nos.240 to 242 of 2015 in terms of the compromise memo.

6. All the parties in these 3 appeals are present before this Court. On enquiries, they admit that they have compromised between themselves and they have agreed to the terms and conditions of the compromise memo. The learned Counsel on either side is also present. They would also submit that the Second Appeals may be disposed of by means of this Compromise Memo.

7. Having heard the parties in person and having gone through the compromise memo and other records, I am satisfied that the compromise is real. Therefore, I am inclined to accept the same and accordingly, I dispose of all the three Second Appeals.

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8. In the result, the Second Appeal No.242 of 2012 is dismissed and the Second Appeal Nos.240 and 241 of 2012 are allowed in part and the decrees passed by the courts below are modified in terms of the compromise memo. The compromise memo shall form part of the decrees in all the three suits. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1.The I Additional District Munsif, Salem.

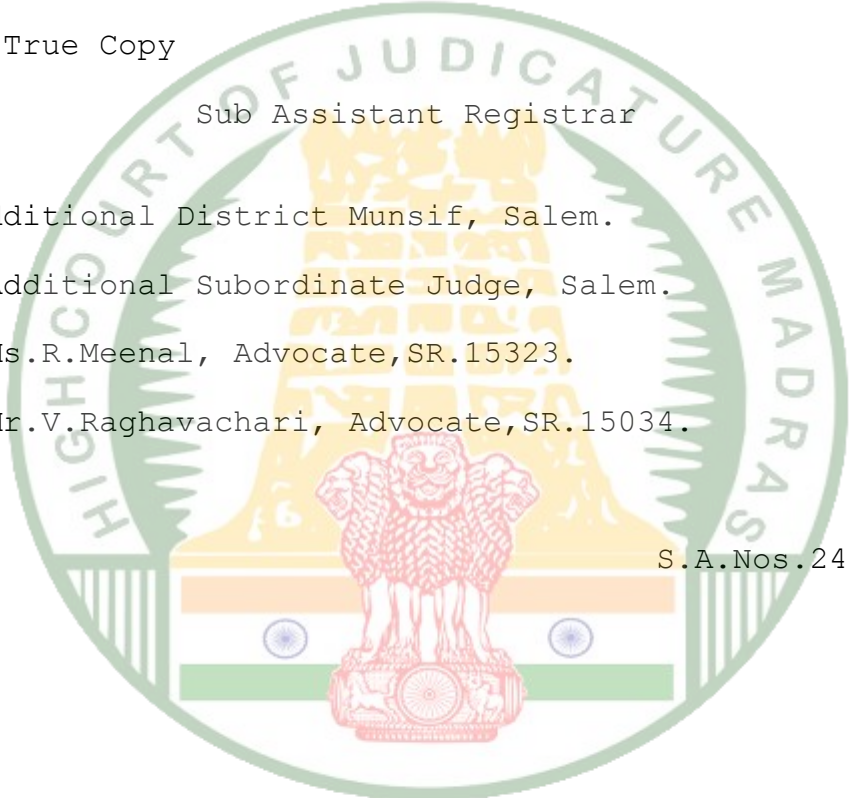
2.The II Additional Subordinate Judge, Salem.

+3 cc to Ms.R.Meenal, Advocate,SR.15323.

+1 cc to Mr.V.Raghavachari, Advocate,SR.15034.

tej(co)
krd 3/6

S.A.Nos.240 to 242 OF 2012



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