

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2015

CORAM :

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

S.A.No.513 of 2009

1. Rukmani Amma
2. Sujatha
3. Seetha @ Geetha

....Appellants/Appellants/Plaintiffs

Vs.

1. R.Varalakshmi
2. Minor Divya
3. Minor Harishith
Minors 2 and 3 rep by mother
and next friend 1st respondent
4. D.Ramachandran
5. Venkatalakshmi Amma

... Defendants/Respondents/Respondents

Prayer:- This Second Appeal has been filed under Section 100 of Civil Procedure Code against the Judgment and decree dated 27.11.2008 and made in A.S.No.16 of 2007 on the file of the Principal District Judge, Krishnagiri dismissing the appeal and confirming the judgment and decree dated 29.06.2007 made in O.S.No.112 of 2003 on the file of Sub Court, Hosur.

For Appellants : Mr.N.A.Nissar Ahmed
For Respondents : Mr.K.Chandrasekaran

J U D G M E N T

There was a suit in O.S.No.142 of 1977 on the file of the District Munsif, Hosur for partition and the said suit was decreed on 06.01.1983 and a preliminary decree was also passed.

2. The 1st plaintiff, who is the 1st appellant herein, was arrayed the 4th defendant in the earlier suit. The present suit in O.S.No.112 of 2003, is also filed for partition, which was dismissed by the Courts below. The second appeal No.513 of 2009 was filed against the dismissal of A.S.No.16 of 2007, confirming the Judgement and decree made in O.S.No.112 of 2003.

3. The learned counsel for the appellant also brought to the knowledge of this Court that they have filed I.A.No.283 of 2014 in O.S.142 of 1977 for passing a preliminary decree for their 1/4th share.

4. In view of the filing of said application wherein, it is open to the parties to work out their remedies in the manner known to law, the second suit is not maintainable and therefore it was rightly dismissed. As already stated, since the appellants have taken steps by filing I.A.No.283 of 2014, this second appeal is dismissed as the suit is not maintainable. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

srn

To

- 1.The Principal District Judge, Krishnagiri
- 2.The Subordinate Judge, Hosur.
3. The Section Officer, VR Section, High Court, Madras.

+1cc to Mr.K. Chdnrasekaran, Advocate, S.R.No.31888
+1cc to Mr.A. Nissar Ahmed, Advocate, S.R.No.32167

JSV(CO)
EU(23/07/2015)

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