

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10-07-2015

CORAM:

THE HON'BLE SMT. JUSTICE PUSHPA SATHYANARAYANA

S.A. No. 541 of 2015

Senthilvadivu

.. Appellant/Appellant/
Plaintiff

vs.

1. Chinnakannu
2. Balaji
3. Kannagi
4. Kalaiselvi
5. Sumathi
6. Andi
7. The Sub-Registrar Harur
Sub-Registration
Town & Taluk Dharmapuri
8. The District Collector
Collectorate Dharmapuri

Harur

9. C. Malarvizhi Extension Officer
in Krishnagiri Milk Producers
Union Co-operative Society
Krishnagiri

.. Respondents/Respondents/
Defendants

Appeal filed under Section 100 of the Code of Civil Procedure against the judgment and decree dated 20.02.2015 passed by the Additional District Judge, Dharmapuri, in A.S. No. 15 of 2013 partly reversing the judgment and decree dated 21.03.2013 passed by the Subordinate Judge, Harur, in O.S. No. 70 of 2010.

For Appellant : Mr. R.N. Amarnath

JUDGMENT

The plaintiff in a suit for partition and permanent injunction has preferred the instant Second Appeal against the judgment and decree dated 20.02.2015 passed by the learned Additional District Judge, Dharmapuri, in A.S. No. 15 of 2013 partly reversing the judgment and decree dated 21.03.2013 passed by the learned Subordinate Judge, Harur, in O.S. No. 70 of 2010.

2. The plaintiff is the daughter of the first defendant while

the defendants 2 and 3 to 5 are his son and other daughters respectively and D6 is the purchaser of the suit property from the first defendant. Admittedly, the suit property belonged to the father of the plaintiff who is the first defendant. Alleging that it was the joint family property and that she had also contributed to the purchase of the same, the plaintiff has filed the suit and the same was resisted by the defendants.

3. The trial Court, before which the witnesses were examined and documents were marked, on appreciation of the documents and the evidence placed thereon, dismissed the suit and on appeal, the Lower Appellate Court granted the relief in respect of certain items of the property and decreed the suit in part. Challenging the disallowed portion, the instant second appeal is directed before this Court by the plaintiff.

4. Heard Mr. R.N. Amarnath, learned counsel appearing for the appellant and perused the records.

5. The suit property originally belonged to the father of the first defendant and after his death, it devolved on the first defendant as his exclusive property. As such, the first defendant has got every right to deal with the property in his own way. In fact, items 2 to 5 were allotted to the paternal uncle of the plaintiff and defendants 2 to 5 which goes to show that there was a division of the property even during the lifetime of the mother of the first defendant. As the plaintiff failed to establish that all the properties are joint family property of the first defendant and that the defendants had categorically proved that it was the separate property of the first defendant, the sale in favour of the sixth defendant by the first defendant is said to be valid. When the properties in item Nos. 5 to 8 belong to the first defendant, who is the father of the plaintiff and the defendants 2 to 5, having been allotted in partition, the Lower Appellate Court granted a decree for 1/7th share of the plaintiff and dismissed the suit with respect to other items. In such circumstances, I find no reason to interfere with the same as no question of law arises for consideration.

In view of the above, the Second Appeal fails and stands dismissed confirming the judgment and decree passed by the Lower Appellate Court. Considering the relationship between the parties, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gri

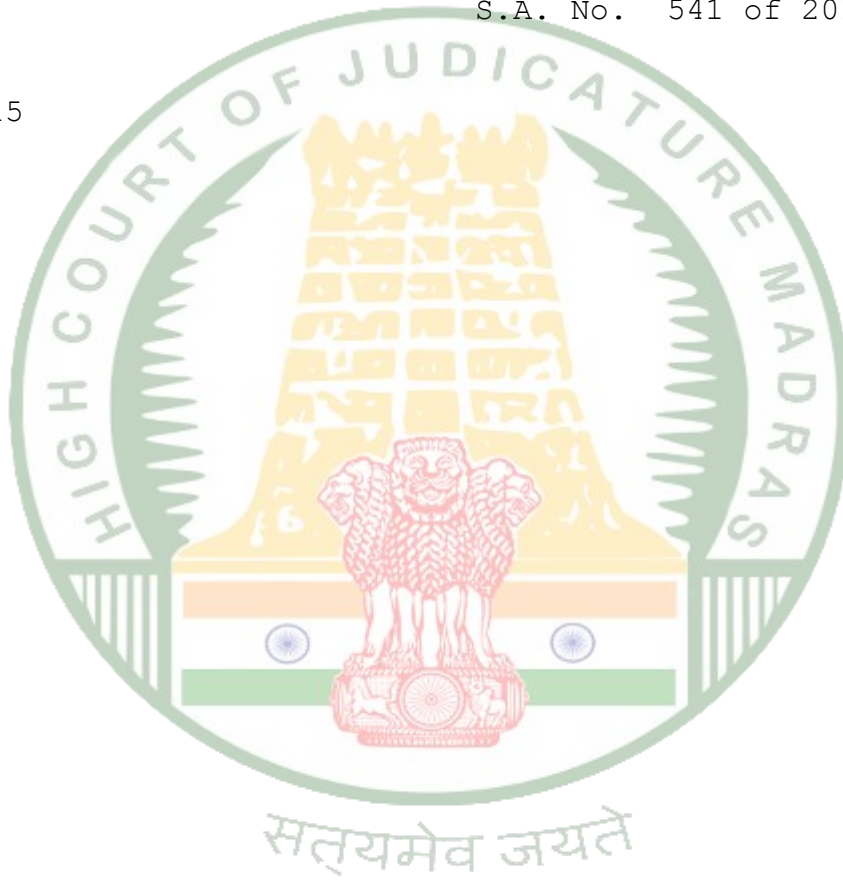
To

1. Additional District Judge
Dharmapuri
2. Subordinate Judge
Harur

+ 1 cc to Mr.R.N. Amarnath, Advocate Sr.35270

S.A. No. 541 of 2015

CNR (CO)
Eu 27.07.15



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