

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.S.No. 535 of 2014

1.Sukumaran Baskaran
2.Ravikumar Baskaran
3.Mrs.R.Sumathi
4.Mrs.Anithalakshmi Arunachalam Baskaran ... Plaintiffs

Vs

1.A.Ramanathan
2.Mrs.Sethulakshmi Baskaran
3.Aru.Meena a.k.a. A.R.Meenakshi
4.Rm.Avadiappan
5.Rm.Thirupathi .. Defendants

Prayer:-

This Civil Suit filed under Order VII Rule 1 of C.P.C and Order IV rule 1 of the original side rules, to pass judgment and decree, in their favour jointly and severally, against the defendants, praying for the following reliefs:

(a) for a Declaration that the Partition Deed dated 27.12.1973 (Doc.No. 2303/1973, SRO, Mylapore, Chennai) between the defendants and late A.Alagammai Achi is void, illegal and invalid and also not binding on the parties in the suit in so far as the property bearing old No.1A, New No.3, Edward Elliots

Road, Mylapore, Chennai-600 004, more particularly described in the Schedule to the plaint is concerned.

b) for a Preliminary Partition Decree by dividing the property bearing old No.1A, New No.3, Edward Elliots Road, Mylapore, Chennai-600 004, more particularly described in the Schedule to the plaint by specifying and dividing the said property into nine equal shares and allotting four shares to the 1st and 2nd plaintiffs and 4 shares to the 3rd and 4th plaintiffs or 1/3rd share each to the 2nd 3rd defendants and 1/3rd share to the 1st defendant and separate possession therefore or in the alternate;

c) for a declaration that by virtue of the Settlement Deed dated 16.09.1964 (Doc. No.1391/1964, SRO, Mylapore, Chennai) the 2nd defendant is the absolute owner of 1/3rd share in the property bearing old No.1A, New No.3, Edward Elliots Road, Mylapore, Chennai-600 004, more particularly described in the Schedule to the plaint, with full power of alienation and the 3rd defendant is the absolute owner of 1/3rd share in the said property, more particularly described in the schedule to the plaint with all rights and separate possession thereof;

d) directing the Defendants 1st, 4th and 5th to render accounts of income and profits from the property bearing old No.1A, New No.3, Edward Elliots Road, Mylapore, Chennai-600 004, more particularly described in the Schedule to the plaint.

e) for a permanent injunction restraining the 1st, 4th and 5th Defendants or any one claiming through them from in any manner alienating, selling, encumbering or otherwise disposing of the property bearing old No.1A, New

No.3, Edward Elliots Road, Mylapore, Chennai-600 004, more particularly described in the schedule to the plaint.

f) for the costs of the suit.

For Plaintiffs : Mr.K.C.Ramamurthy

For Defendants : M/s.J.Ramakrishnan
Suhrit Parthasarathy
S.Victor Parasath, for D1, D4&D5

No appearance for D2, D3

JUDGMENT

Today, when the matter was taken up for hearing, the learned counsel appearing for the plaintiff submitted that the plaint had already been rejected by the Division Bench of this Court by order dated 28.04.2018 passed in O.S.A.No. 303 of 2017 & C.M.P. No. 18809 of 2017. He has also produced a copy of the said order.

2. The learned counsel for the plaintiff further submitted that, now the plaintiff has filed a special leave petition before Hon'ble Supreme Court as against order of the Division Bench of this Court. However he is not in a

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position to give any further particulars with regard to the status of the special leave petition moved before the Hon'ble Supreme Court. Since the plaint has already been rejected by the Division Bench, the civil suit has to necessarily be dismissed. However, it is always open to the plaintiff to approach this Court with appropriate application in the event any order is being passed in his favour by the the Hon'ble Supreme Court.

3. In the result, the suit is dismissed.No costs.

27.07.2018

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