

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2016

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

C.S.No.191 of 2012

and

A.No.4453 of 2013

K.P.Madhavan ... Plaintiff

-vs-

1.K.P.Anandan

2.P.Vasugi (deceased)

3.K.Lilly

4.K.Nithyakalyani

5.P.Anbumani

6.P.Sampath

(Defendants 5 and 6 are brought on record as LRs of the deceased 2nd defendant as per orders dated 12.07.2016 and 29.07.2016 in A.No.5832 of 2015)

... Defendants

Plaint filed under Order VII Rule 1 of Civil Procedure Code, 1908, r/w Order IV Rule 1 of High Court Original Side Rules, praying for judgment and decree as follows:

(1)Declaring that the plaintiff is the absolute owner of the suit properties, more fully described in the Schedule hereunder;

(2)Cancellation of the Preliminary Decree dated 13.12.1989 passed in A.S.No.479 of 1988 on the file of the 11th Additional City Civil Court, Chennai modifying the judgment and decree dated 15.07.1987 in O.S.No.7832 of 1984 on the file of the XIV Assistant City Civil Court, Chennai and not binding on the plaintiff and the suit properties;

(3)Consequently for a permanent injunction restraining the defendants herein or any one claiming through him or

authorized by him from, in any manner, interfering with the plaintiff's peaceful possession and enjoyment of the suit properties;

(4) Directing the defendants to pay the plaintiff the cost of the suit;

(5) To pass such further or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice.

SCHEDULE OF PROPERTY

Item-1

All that piece and parcel of land of an extent of 180.0 Sq.Meters bearing Plot No.78 comprised in T.S.No.36, Block No.16, Puliyur Village, Egmore-Nungambakkam Taluk, Central Madras District, Chennai-94, Thiruvengadapuram Project Area, Nelson Manickam Mudaliar Street, bounded on the North by the Plot No.77 and Nelson Manicka Mudaliar Street, on the South by canal, on the East by Plot No.79 and on the West by Plot No.76, measuring in all about 180.0 Sq.Meter, measuring East to West on the northern side 11.5, 2.4 Meter, East to West on the Southern Side 12.2, 3.1, 1.0 Meter, North to South on the Eastern side 14.0, 4.1, 4.7 Meter, North to South on the western side 14.0, 7.7 Meter.

Market value of the property of Rs.50,400/-

Item-2

All that piece and parcel of land of an extent of 88.00 Sq.Meters bearing Plot No.77 comprised in T.S.No.36, Block No.16, Puliyur Village, Egmore-Nungambakkam Taluk, Central Madras District, Chennai-94, Thiruvengadapuram Project Area, Nelson Manickam Mudaliar Street, bounded on the North by Nelson Manickam Mudaliar Street, on the South by Plot No.78, on the East by Plot No.78 and pathway, measuring in all about 88.0 Sq.Meter and on the West by

Plot No.76, measuring East to West on the northern side 11.5 Meter, East to West on the Southern Side 11.5 Meter, North to South on the Eastern Side 7.7 Meter, North to South on the western side 7.7 Meter.

Market value of the property of Rs.66,34,682/-

For plaintiff : Mr.AR.L.Sundaresan, Sr.Counsel
for Ms.AL.Ganthimathi

For defendants : Mr.A.Malath Devapriyam

JUDGMENT

Seeking an order from this Court in exercise of powers under Order 7 Rule 11 of the Code of Civil Procedure, the application in A.No.4453 of 2013 has been filed in the present suit, by the defendants / decree holders in the suit in O.S.No.7832 of 1984 to reject the plaint, which decree has been modified in A.S.No.479 of 1988 on the file of the 11th Additional City Civil Court, Chennai and confirmed in Second Appeal No.662 of 1991 on 10.12.2009.

2.After making submissions, the learned counsel for the respondent in A.No.4453 of 2013 / plaintiff submits that in as much as the very same issue has been raised in the final decree proceedings, the present suit may be dismissed without prejudice to the contentions raised therein.

3.Considering the submissions made, the present suit in C.S.No.191 of 2012 is dismissed giving liberty to the plaintiff to raise all the contentions in the pending final decree proceedings. Consequently, the application in A.No.4453 of 2013 is closed. No costs.

Sd/.M.M.S.J

30.08.2016

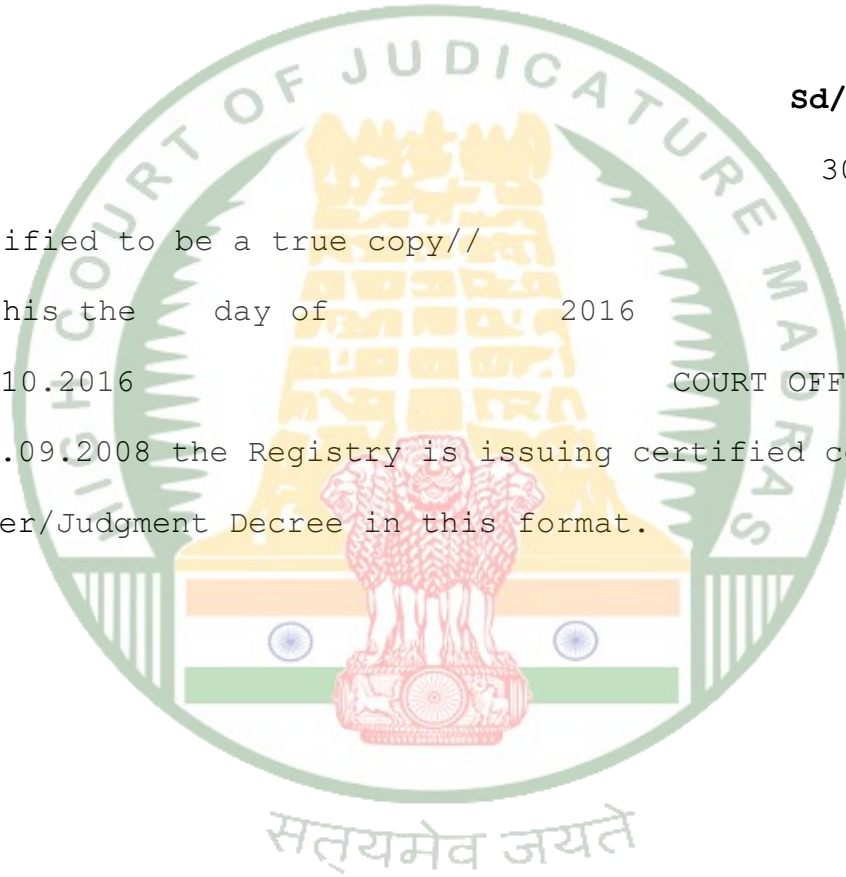
//Certified to be a true copy//

Dated this the day of 2016

S.s/20.10.2016

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.



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