

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2016

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
THE HON'BLE MR. JUSTICE R.MAHADEVAN

O.S.A.No.266 of 2012
and
M.P.No.1 of 2012

1.Azamathulla Hashmi
2.Mohamed Naveed Hashmi ... Appellants

vs

Amtul Khader Badrunnisa Hamedia
@ Fehmida Abdul Hai. ... Respondent

Original Side Appeal filed under Order XXXVI, Rule 9 of Original Side Rules read with Clause 15 of Letters Patent against the order dated 22.6.2012 in A.No.1374 of 2010 in C.S.No.928 of 2009 on the file of this Court.

For Appellants .. Mr.R.Thiagarajan

For Respondent ... Mr.a.Palaniappan

* * * * *

JUDGMENT
(Judgment of the Court was delivered by The Hon'ble Chief Justice)

In view of the fact that Issue has been cast qua the maintainability of the suit filed by the respondent and the present appeal is only to assail the order passed refusing the plea of the rejection of the plaint, it is agreed that the decision on the issue would decide the said question.

2. The learned counsel for the appellants states that the respondent should lead evidence first, as he seeks to assail the title of the appellants. The learned counsel for the respondent disputes this position.

3. The aforesaid is not an issue before us in the present appeal and it was for the appellants to move the learned Single Judge for the said relief.

4. The appeal is disposed of in terms aforesaid. No costs.
Consequently, M.P.No.1 of 2012 is closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

The Sub Assistant Registrar,
Original Side, High Court, Madras.

+1 cc to Mr.A.Palaniappan, advocate, sr.53920

+2 cc to R.Thiyagarajan, advocate, sr.54286. (30/9)

ctr(co)
krd 29/9

O.S.A.No.266 of 2012



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