

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2016

CORAM

The HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND

The HON'BLE MR.JUSTICE R.MAHADEVAN

O.S.A.No.282 of 2012

C.M.Dhinakaran

... Appellant

Vs.

1. S.Annapoorna

2. Chennai Metro Rail Ltd.
Harini Towers
No.7, Conran Smith Road
Gopalapuram
Chennai - 600 086.

3. The Special Tahsildar
Land Acquisition Chennai Unit-2
Chennai Metro Rail Limited
Harini Towers
No.7, Conran Smith Road
Gopalapuram
Chennai - 600 086.

... Respondents

PRAYER: Appeal against the order and decree dated 5.6.2012 made in Application No.1168 of 2012 in C.S.No.422 of 2001.

For Appellant : Ms.C.Sriranjani

For Respondents : Mrs.Chitra sampath
Senior Counsel
for Mr.T.S.Baskaran
for 1st respondent

No Appearance for R2 & R3

JUDGMENT
(Delivered by the Hon'ble Chief Justice)

The family settlement dated 1.6.1994 itself has come into dispute on account of the claim by the deceased plaintiff/mother that the appellant/son has failed to comply with the family settlement and the family settlement has failed.

2. One of the properties forming subject matter of the suit is Tamil Nadu Housing Board HIG Flat No.327/5, Anna Nagar. This flat stood in the name of the appellant and is described in Schedule 'A' to the plaint. It is the case of the original plaintiff that monies for purchase of this flat came from the family and the appellant was not even an earning member and the original plaintiff chose not to take allotment in her name.

3. Be that as it may, this flat was acquired for the benefit of the Chennai Metro Rail and compensation was determined. The payment of compensation to the appellant was objected to by the original plaintiff. Normally, the amount would have been deposited in the Reference Court and reference would have been made under Section 30 of the Land Acquisition Act, 1894. But the original plaintiff moved an application for bringing this amount into the court in the suit proceedings for declaration-cum-partition and this request has been acceded to by the impugned order dated 5.6.2012.

4. In the appeal no interim orders were granted and we are informed that the amount has already been brought into the Court. The only tragedy seems to be that this amount is lying in the Court apparently without interest. It is true that normally the amount should have been deposited in the Reference Court and even if it had been so deposited, the Court would be required to adjudicate as to the objections to release the amount to the appellant. In the partition suit, this very question is sought to be adjudicated and possibly the Reference Court would have awaited the judgment in the suit for declaration-cum-partition. The amount having been brought into the Court, we are of the view that the appeal has really become infructuous. However, the amount should be kept in a fixed deposit for over one year and kept renewed to abide by the judgment in the suit.

5. We are also informed that the pleadings are complete, but issues have not been framed. The suit be listed before the learned Single Judge with connected T.O.S.No.33 of 2008 on 20.10.2016. The parties will file their documents and the suit will be listed for exhibiting of documents on 14.11.2016, whereafter the suit will be set down for trial. The trial be expedited.

The appeal is dismissed in the aforesaid terms leaving the parties to bear their own costs. Consequently, M.P.No.1 of 2012 is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sasi

To

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

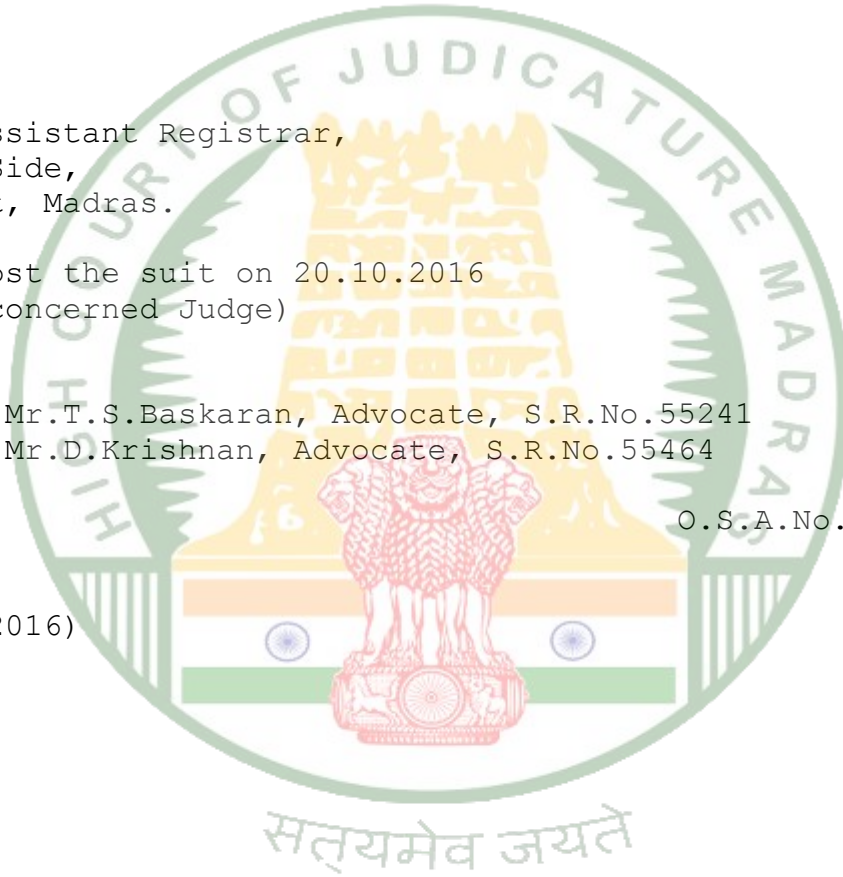
(Note : Post the suit on 20.10.2016
before concerned Judge)

+2cc's to Mr.T.S.Baskaran, Advocate, S.R.No.55241

+2cc's to Mr.D.Krishnan, Advocate, S.R.No.55464

O.S.A.No.282 of 2012

NM(CO)
CA(04/10/2016)



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