

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2016

CORAM

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

The HON'BLE MR.JUSTICE R.MAHADEVAN

O.S.A.No.184 of 2016

Fathima Hanif ... Appellant/1st Respondent/
1st Defendant

Vs.

1. Haji Rasheed Mohammed ... 1st Respondent/Applicant/
Plaintiff
2. Adam Haji Mohammed
3. Osman Haji Mohammed
4. Azeez Haji Mohammed
5. Haji Abdul Hameed Mohammed ... Respondents 2 to 5/
Respondents 2 to 5/Defendants 2 to 5

PRAYER: Appeal filed against the order dated 4.7.2016 made
in Application No.1058 of 2016 in C.S.No.648 of 2015.

For Appellant : Mr.Y.Mohammed Ghouse

For Respondents : Mr.K.Mohanamurali

JUDGMENT

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

On hearing the learned counsel for the parties, it is quite apparent that a case different from the one made out before the learned Single Judge is sought to be canvassed before us, possibly on account of change of counsel.

2. The learned counsel for the appellant now appearing before us seeks to submit that if the intent of the order of the learned Single Judge was to protect the sale consideration received from sale of two plots, then that sale consideration is only Rs.7,20,000/-.

3. We are of the view that if the appellant now seeks to raise these issues, she would have to approach the learned Single Judge. Needless to say, the principle of preserving joint properties was violated by the appellant/first defendant by sale of these two properties. If the appellant claims that she is entitled to a share in rent/businesses, then she has to move an appropriate application before the learned Single Judge. Similarly, qua the amount in the savings account and why it was withdrawn would be another explanation which the appellant would have to offer before the learned Single Judge.

4. The learned counsel for the appellant faced with this situation does not press the appeal and states that he will move the learned Single Judge for necessary directions/modifications.

Liberty granted. This appeal is dismissed as withdrawn.
No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sasi

To

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

+1cc to Mr.Y.Mohammed Ghouse, Advocate, S.R.No.51278
+1cc to Mr.K.Mohanamurali, Advocate, S.R.No.51320

O.S.A.No.184 of 2016

MD(CO)
CA(15/09/2016)

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