



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Monday, the Fourteenth day of November Two Thousand Sixteen
PRESENT

The Hon`ble Mr.Justice S.S.SUNDAR

WEB COPY

SA(MD) No.55 of 2015

N.PALANIAPPAN

... APPELLANT/APPELLANT/PLAINTIFF

Vs

1 N.VIJAYAN

2 C.NAGAIHA, (DIED)

3 N.MALLIKA

4 N.SURESHKANNAN

(R-3&R-4 BROUGHT ON RECORD

AS LRS OF DECEASED 2ND RESPNT

VIDE ORDER. DT.14.06.2016

MADE IN CMP(MD)3331/16 &3332/16

IN SA(MD)NO55/15 BY RMJ) ... RESPONDENTS/RESPONDENTS/DEFENDANTS

PRAYER : Second Appeal against the Judgment and Decree of the Principal Subordinate Judge, Dindigul, dated 18/11/2013 made in Appeal Suit NO. 85 of 2012 preferred against the Judgment and decree of the Court of the Additional District Munsif, Dindigul, made in Original Suit No. 378 of 2011 dated 19.07.2012.

DECREE : The Second Appeal comin on for hearing on this day upon perusing the Grounds of Appeal, the Judgment and Decrees of the Lower Appellate court and the Court of First instance and the material papers in the suit and upon hearing the arguments of Mr.M.Kannan, Advocate for the Appellant, and of Mr.A.N.Ramanathan for the Respondents No.1, 3 and 4 and this court while disposing this Appeal doth order and decree as follows :-

1.That the Judgment and Decree of the Court below be and hereby are confirmed on the question of declaration and consequential relief in the present suit.

2.That the matter be and hereby is remitted back to the trial court for the limited purpose of ascertaining the entitlement of the Appellant for the relief of partition after giving opportunity to both sides to lead evidence and permitting the plaintiff / appellant to amend the plaint for the relief of partition.

3.That the date of amendment of plaint will be the date for pursuing the suit / claim for partition.

4.That the trial court do restore the original suit to its original position in the register and proceed to dispose of the case in the light of the observations and direction contained in the judgment herein.



5. That the parties shall appear before the lower court on 04.01.2017.

6. That the trial court be and hereby is directed to dispose of the suit within a period of one year thereafter.

7. That there be no costs in trial appeal.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

TO

1. The Principal Sub Judge,
Dindigul.

2. The Additional District Munsif,
Dindigul.

Copy to:-

The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.A.N.Ramanathan, Advocate in SR No.68771

+1cc to Mr.M.Kannan, Advocate in SR No.68446

ORDER DATED 14/11/2016

IN

SA(MD) No.55 of 2015

DECREE

Nature of Decree :

Disposing this Appeal preferred against the judgment and decree of the Principal Sub Judge, Dindigul made in AS.No.85/2012 dated 18.11.2013 confirming the judgment and decree in O.S.No.378/2011 dated 19.07.2012 on the file of the Additional District Munsif, Dindigul, etc., as stated within.