



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Monday, the Twenty First day of November Two Thousand and Sixteen

PRESENT

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

Second Appeal (MD) No.321 of 2011

1.Karuppaiah

2.Kannammal

: Appellants/Appellants/Plaintiffs

Vs.

1.Jothimani

2.Karuppiah

: Respondents/Respondents/Defendants

Second Appeal is filed under Section 100 of the Code of Civil Procedure, 1908, setting aside the Judgment and Decree made in A.S.No.93 of 2008 dated 11.01.2011 on the file of Sub-Judge, Sivagangai, confirming the Judgment and Decree made in O.S.No.87 of 2004 dated 05.08.2008 on the file of the District Munsif-cum-Judicial Magistrate, Ilayangudi.

DECREE: This Second Appeal is coming for hearing on this day, upon perusing the grounds of appeal, judgment and decree of the lower appellate court and the court of First Instance and the material papers of the appeal and upon hearing the arguments of Mr.N.Vignesh, Advocate for the appellants and of Mr.Mr.S.Srinivasa Raghavan, Advocate for the respondents, this court while allowing the appeal and remitting the matter back to the lower appellate court to give an opportunity to both parties and to decide the following issues:-

a) Whether the settlement deed under Ex.A1 dated 29.06.1942 is proved in accordance with law?

b) Whether the sale deeds under which the defendants in the respective suits, claim title are valid and executed by the son of Karuppiah/grandson of Sathappakonar?

c) Whether the plaintiffs/appellants proved their possession to get a decree for injunction?

And permitting the court below to frame appropriate issues which may arise on the basis of pleadings of respective parties, doth order and decree as follows:-

i)that the judgment and decree of the Sub Court, Sivagangai dated 11.01.2011, made in AS.No.93 of 2008 be and are hereby set aside.

ii)that, both parties be and hereby are directed to appear before the sub-Court, Sivaganga on 03.01.2017 (Tuesday) without fail.

iii)that the lower appellate Court - Sub Court, Sivagangai be and are hereby directed to dispose of the appeal within a period of ten months thereafter; and



iv) that there be no costs in this second appeal.

Sd/-

Assistant Registrar (CS-I)

/True copy/

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Sub Assistant Registrar (CS)

To

1. The Subordinate Judge, Sivaganga.

2. The District Munsif-cum-Judicial Magistrate,
Ilayangudi.

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

+1cc to Mr. J. Suresh, Advocate in SR.70699

+1cc to Mr. S. Srinivasa Raghavan, Advocate in SR.71412

ORDER DATED : 21.11.2016

DECREE

SA(MD) No. 321 of 2011

Nature of Decree: Allowing the appeal and remitted back to the lower appellate court, preferred against the judgment and decree dated 11.01.2011 made in AS.No.93/2008 on the file of the Sub Court, Sivagangai and etc., as stated within.

PBK/SS-2/SAR-I 11.01.2017 ::2P-6C: