IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.01.2017

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE N. AUTHINATHAN

A.S.No.229 of 2013
and M.P.No.1 of 2013

1. Padmavathy
2. G. Hari Shankar ... Appellants/Defendants

Vs

Ettammal
... Respondent/Plaintiff

Appeal filed Under Section 96 of the Civil Procedure Code against the judgment and decree dated 28.01.2013 of the learned III Additional District and Sessions Judge, Salem, decreeing the suit in O.S.No.67 of 2009.

For Appellants : Mr.V.R. Rajasekaran

For respondent : No appearance

JUDGMENT

[Judgment of the court was delivered by S.NAGAMUTHU, J.]

The appellants are the defendants in the suit in O.S.No.67 of 2009 on the file of III Additional District and Sessions Judge, Salem. The respondent is the plaintiff in the suit. The respondent filed a suit for partition and for separate possession of her share in the suit properties. The suit was decreed as prayed for. As against the same, the appellants/defendants have come up with this appeal.

2. Today, when the appeal is taken up for hearing, it is found that the respondent has not made appearance despite service of notice. The learned counsel for the appellants submitted that the issue was settled out of Court and Compromise Memo was also filed before the lower Court in the final decree application and the same was recorded and thus, final decree was passed. Therefore, nothing survives in this appeal.

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3. Since Compromise Memo has been accepted by the trial court and final decree was also passed in terms of the compromise, no relief could be granted to the appellants in this appeal. Hence the appeal deserves to be dismissed as infructuous. Accordingly, the appeal is dismissed as infructuous. Consequently, connected MP is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The III Additional District and Sessions Judge,
Salem.

2.The Section Officer,
VR Section, High Court,
Madras.

+1cc to Mr.V.R.Rajasekaran, Advocate Sr.1257

A.S. No.229 of 2013

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