

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.02.2017

Coram:

The Honourable Mr.Justice M.M.SUNDRESH  
S.A.No.793 of 2015

1.Kavitha

2.Minor R.Sneha

3.Minor R.Aiyshwarya,  
D/o Late S.Rangaraj,  
Rep. by mother Kavitha ... Appellants / Defendants 2 to 4

Vs.

1.Rukkammal

2.Vasanthamani ... Respondants 1 & 2 / Plaintiffs

3.Selvi ... 3rd Respondent / 1st Defendant

Second Appeal is filed under Section 100 C.P.C., as against the judgment and decree dated 23.04.2015 made in A.S.No.66 of 2014 on the file of IV Additional District Munsif Court, Coimbatore, confirming the judgment and decree dated 27.02.2014 made in O.S.No.362 of 2012 on the file of III Additional Subordinate Judge, Coimbatore.

For appellant: Ms. P.T.Asha for  
M/s Sarvabhauman Associates

For respondent: Mr.V.Ravichandran for  
Mr.C.Veeraraghavan for R1 & R2

No appearance for R3

JUDGMENT

Suit has been laid for partition and separate possession. The appellants, who are Defendants 2 to 4, have filed the above second appeal.

2.At the time of admission on 02.02.2016, the following substantial question of law has been framed.

Having decreed the suit for partition, are the  
Courts below justified in not

declaring/decreeing the shares of the appellants/defendants 2 to 4 while declaring/decreeing the shares of the plaintiffs?

3. It is the case of the plaintiffs that the suit property is the joint family property. The Courts below, treating the suit property as joint family property, have passed the preliminary decree for partition.

4. The learned counsel for the appellants submitted that in a suit for partition, every defendant is deemed to be a plaintiff and hence, they ought to have granted a decree for partition insofar as their shares.

5. The learned counsel appearing for the respondents 1 and 2/plaintiffs submits that they do not have any objection for it.

6. Accordingly, the trial Court is directed to grant a preliminary decree after due notice to the parties in favour of the appellants and quantify their respective shares in the suit property, which has been found to be a joint family. The substantial question of law is answered accordingly.

7. Thus, the findings rendered by the Courts below are confirmed and the second appeal stands ordered accordingly. All other aspects, the order of the Courts below stand confirmed. No costs.

Sd/-  
Assistant Registrar

//True Copy//

raa  
To

Sub Assistant Registrar

1.IV Additional District Munsif Court,  
Coimbatore.

2.III Additional Subordinate Court,  
Coimbatore.

3.The Section officer,  
V.R.Section, High Court, Madras.

+1cc to Mr.Veeraraghavan, Advocate, S.R.No.8005  
+1cc to Mr.Sarvabhuman, Advocate, S.R.No.7671

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KJI (CO)  
RS (04/04/2017)