



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:30.08.2017

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

A.S.(MD) No.185 of 2015 &
M.P.(MD) .No.1 of 2015

I.Packiaraj ... Appellant/Respondent/Defendant

Versus

V.Anthony Nixon ... Respondent/Petitioner/Plaintiff

PRAYER: Appeal Suit is filed under Section 96 r/w Order XLI Rule 1 and 2 of C.P.C. As against the judgment and decree, dated 17.12.2014 passed in I.A.No.16 of 2009 in O.S.No.23 of 2007 on the file of the Principal District Court, Tirunelveli.

For Appellant : Mr.D.Nallathambi
For Respondent : Mr.G.Prabhu Rajadurai

JUDGMENT

[Judgment of the Court was delivered by M.M.SUNDRESH,J]

This appeal is arising against the final decree proceedings in a suit for partition. The appellant herein is the defendant in the suit. The suit is laid for partition and separate possession. The suit filed in O.S.No.23 of 2007 before the learned Principal District Court, Tirunelveli, was decreed granting each ½ of the suit property to both the appellant as well as the respondent. Thereafter, the respondent/plaintiff laid the final decree proceedings. In pursuant to the report of the learned Advocate Commissioner, the suit property was divided into allotting the western portion to the appellant and the eastern portion to the respondent/plaintiff. This division is sought to be assailed in this present appeal.

2. The learned counsel appearing for the appellant would submit that what is acceptable to him is the eastern portion and without any basis western portion has been given in favour of the appellant.

<https://hcservices.ecourts.gov.in/hcservices/>

3. Considering the said submissions, we directed the learned counsel appearing for the respondent to get instructions as to



whether he is willing to take the western portion.

4. Today when the matter is taken up for hearing, the learned counsel for the respondent would submit that he has got no objection to allot western portion to the respondent, which is originally allotted to the appellant as per the final decree granted by the Trial Court. The learned counsel for the appellant would submit that a decree can be passed to that effect. Accordingly, the judgment and decree rendered by the Trial Court is modified to the following effect:-

i) There shall be a decree in favour of the appellant insofar as eastern portion of the suit property is concerned as indicated in the plaint attached.

ii) the respondent/plaintiff is allotted the western portion of the suit property as annexed in the plaint.

iii) the parties are directed to deposit the stamp papers for engrossing the final decree proceedings.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Principal District Judge,
Tirunelveli.

Copy To:-

The Section Officer
V.R.Section,
Maduari Bench of Madras High Court
Madurai.

+ 1 CC TO Mr.D.NALLATHAMBI, ADVOCATE IN SR No. 75543
+ 1 CC TO Mr.G.PRABHU RAJADURAI, ADVOCATE IN SR No. 75602

JIKR

TE/SV-MMS/SAR-IV : 18/09/2017 : 2P/5C

Judgment made in
A.S.(MD) No.185 of 2015 &
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