



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2017

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

SA(MD) No.169 of 2017

and

C.M.P. (MD) .No.2977 of 2017

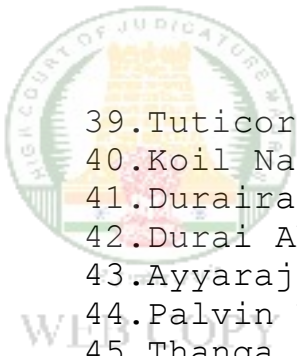
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Vairavanathan

... Appellant

Vs.

- 1.Natesan
- 2.Thirumani Pandian
- 3.Dr.Parasakthi
- 4.Raveendran
- 5.Balagangadara Thilagar
- 6.Balambigai
- 7.Rengadevi
- 8.Sasikala
- 9.Meeranbai
- 10.Sahul Hameed
- 11.Jabakani Rajapandian
- 12.Kasi Nadar
- 13.V.P.Rajan
- 14.Thurai Nadar
- 15.Pushpam
- 16.Pandia Nadar
- 17.Deivakan Nadar
- 18.Ponraj Nadar
- 19.Ponnaiah Nadar
- 20.Rathinasamy Nadar, S/o Thiravia Nadar
- 21.Thangammai
- 22.Kovilpillai Nadar
- 23.Rathinasamy Nadar, S/o Vel Nadar
- 24.Kandasamy Nadar
- 25.Mookaiah alias Ramasamy Nadar
- 26.M.T.R.Rathinasamy Nadar
- 27.Ahamed Mohideen
- 28.Karuppasamy Pandian
- 29.Kothanda Raman
- 30.Vellaipala Nadar
- 31.Duraipandi Nadar
- 32.Rajakani Ammal
- 33.Narayana Nadar
- 34.K.Ponnusamy Nadar
- 35.Avudai Thangammal
- 36.G.Radhakrishnan
- 37.Periapiratti
- 38.Annathai Ammal



39. Tuticorin Diocesan Secretary
40. Koil Nadar
41. Durairaj Nadar
42. Durai Abraham
43. Ayyaraja Nadar
44. Palvin Nadar
45. Thanga Jeyaraja
46. Rajamani
47. Manuel Cruz
48. R.C. Krishnamoorthy
49. Pon Jebaraj
50. Kanagaraj
51. Periasamy
52. Ebenezer Ammal
53. Jeya Gopal
54. Pon Jeyaraj
55. L. Periasamy
56. Gomathy
57. Guruvamman alias Selvi
58. Gunasekar
59. Buckle Ananthakumar
60. Bagavathi Murugan
61. Chinnathambi
62. Paul
63. Ramesh Appathurai
64. Thiruvasagam
65. Kannan
66. Dhanalakshmi
67. Kasi Venkatasubbu
68. Ramakrishnan
69. Ramadoss
70. Sundaresan
71. Kabilkumar
72. Jeeva
73. Gurusamy
74. Perumal Nadar.

...Respondents

Prayer: Second Appeal filed under Section 100 of the Code of the Civil Procedure against the Judgment and Decree dated 29.01.2016 in A.S.No. 5 of 2011 on the file of the II Additional District Court, Thoothukudi confirming the Judgement and Decree in O.S.No.71 of 1993 dated 19.01.2004 on the file of the Sub Court, Thoothukudi.

For Appellant : Mr.T.Selvan

JUDGMENT

The plaintiffs have filed the suit for partition alleging that they as well as the defendants have purchased the property successively from a common predecessors-in title.



2.It is the allegation that the undivided plots were sold under the sale deed in their favour, which were purchased by the defendants. Both the Courts below have taken a view that it is not undivided plots that the defendants and the plaintiffs have purchased and consequently they are not entitled to the relief of partition.

3.This Second Appeal is taken up for final disposal at admission stage itself.

4. This Court heard the submission made by learned counsel for the appellant and perused the materials placed on record.

5.The learned Counsel for the appellant produced the copies of the sale deeds executed in his favour, which were marked as Exs. A-1 to A-3 in the suit and also sale deed of the defendants that were marked as Exs B-2 to B-9. The property consisted in this sale deed shows that specific plots of land with clear boundaries were sold to the respective parties.

6.The learned counsel for the appellant would now submit that after they have purchased, the boundaries separating the properties were destroyed by the defendants and consequently he finds difficulty in fixing his boundaries.

7.Inasmuch as separate plots of land have been sold with clear boundary description, a suit for partition cannot be filed. However, when the boundaries between the properties purchased by the parties is not available on lie, then the remedy available to the plaintiff is to file a suit for demarcation of the property.

8.As such I find, there is no substantial question of law is involved to admit the appeal and the plaintiffs are at liberty to file a suit for demarcation of their property from the adjacent property, if they are so advised.

9.With the above observation, this Second Appeal is dismissed. Consequently, connected C.M.P.(MD) No.2977 of 2017 is closed. No costs.

Sd/-

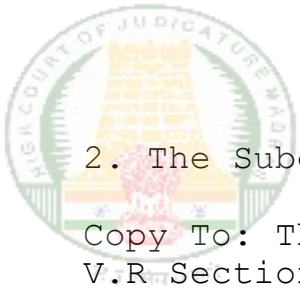
Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To

<https://hcservices.courts.gov.in/hcservices/>
The II, Additional District Judge,
Thoothukudi



2. The Subordinate Judge, Thoothukudi.

Copy To: The Section Officer,
V.R. Section, Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.T.SELVAN, Advocate, SR No. 59465.

MSA/DSS

PSM/SKN-RSK/SAR1/28.06.2017/4P/5C

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