

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2018

CORAM:

THE HON'BLE MRS.JUSTICE R. HEMALATHA

S.A.No.1576 of 2001

A.M.Buhari

...Appellant

/Vs/

1. Mahadia Beevi (Deceased)
 2. Hairunnissa
 3. Mohammad Shafiullah
- ... Respondents

(Respondents 2 and 3 are brought on record as legal heirs of the deceased sole respondent and also recorded the appellant as LR of the deceased sole respondent vide order dated 22.10.2003 made in CMP.No.4773/2003)

PRAYER : Second Appeal filed under Section 100 of C.P.C., against the decree and judgment in A.S.No.17/2001 on the file of the Court of Principal Subordinate Judge, Mayiladuthurai dated 23.07.2001 in reversing the decree and judgment in O.S.No.573/96 on the file of the Court of Principal District Munsif, Mailaduthurai, dated 08.02.2001.

For Appellant : Mr.A.Muthukumar

For Respondents : M/s.A.B.Reehana Begum
for Mr.T.R.Rajaraman

JUDGMENT

During the pendency of the Second Appeal Mrs.Hairunnissa, W/o.A.K.Jaman, second respondent filed a petition in CMP.No.12446 of 2018 before this Court to receive the certified copy of the registered release deed dated 29.10.2005, by which the appellant through his power of attorney released his 1/3rd share in the suit property in favour of the second respondent. This Court vide its order dated 27.07.2018 directed the trial Court to take evidence with regard to the aforesaid document and send back the deposition along with the other material parts of the records.

2. Accordingly, the proof affidavit of Mrs.Hairunnissa, W/o.A.K.Jaman, the second respondent, was filed before the trial Court and the certified copy of the settlement deed was marked as (Ex.A5). A perusal of the records sent by the trial Court also shows that the present appellant did not appear before the trial Court, even after receipt of the summons from the trial Court. He did not also choose to cross examine PW2.

3. The learned counsel appearing for the appellant would contend that he does not have any instructions from his clients and that the second appeal can be disposed of in view of the subsequent development that took place in this case.

4. It is clear from the relinquishment deed dated 29.10.2005 that the appellant herein has relinquished his 1/3rd share in the suit property in favour of the second respondent and in view of the subsequent developments, the Second Appeal has become infructuous and is therefore dismissed. No Costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

dna

To

1.The Principal Subordinate Judge, Mayiladuthurai.

2.The Principal District Munsif, Mailaduthurai.

3. The section officer,
VR Section,
High court
Madras

+1cc to Mr.A.Muthukumar , Advocate SR.No. 68722
+1cc to Mr.T.R.Rajaraman , Advocate SR.No. 69032

S.A.No.1576 of 2001

ASK(14/11/2018)