

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2018

CORAM :

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

S.A.No.768 of 2017
and
C.M.P.No.19198 of 2017

S.Mani ... Appellant/Plaintiff/Appellant

Vs.

1. Singaram
2. S.Moorthy
3. S.Sekar
4. S.Boopathy
5. N.Sivagami

... Respondents/Defendants/Respondents

Prayer:- This Second Appeal has been filed under Section 100 of Civil Procedure Code against the judgment and decree in A.S.No.11 of 2009 dated 28.09.2012 on the file of the Subordinate Judge, Ranipet, Vellore District confirming the judgment and decree in O.S.No.255 of 2005 dated 28.09.2007 on the file of the District Munsif, Sholinghur.

For Appellants : Mr.R.Suryaprakash for
Ms.P.A.Chithramani

For Respondents 1 to 4 : Mr.S.Silambuselvan

For Respondent 5 : Mr.S.Mukunth for
M/s.Sarvabhauman Associates

J U D G M E N T

The plaintiff has preferred the above Second Appeal challenging the decree passed in a suit for partition.

2. The defendants 1 and 2 are the brothers of the plaintiff and the fifth defendant is the purchaser of the property in question from the second defendant. The suit was decreed as prayed for. However, so far as the fifth defendant is concerned, he was found to be the bonafide purchaser without notice. Hence, it is stated in the decree that the fifth defendant will get his share based on the allotment that would be made to his vendor, namely, the second defendant. Aggrieved

by the same, the plaintiff had preferred the first appeal and the lower appellate Court had also confirmed the said decree. Challenging the same, the second appeal has been preferred by the plaintiff.

3. The plaintiff has misunderstood that he is not entitled to any share in item Nos.10, 12 and 13. The decree specifically gives 1/5 th share in all the properties including item Nos.10,12 and 13.

However, the fifth defendant is entitled to get his share as per the sale agreement from and out of the extent that may be allotted to the second defendant in item Nos.10, 12 and 13. When the share of the plaintiff is not disputed or disturbed, he cannot have any grievance over the same.

4. Hence, the Second Appeal is dismissed. It is open to the plaintiff to agitate his rights in the final decree proceedings with respect to the value, etc. No costs, consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

srn

To

1.The Subordinate Judge, Ranipet,
Vellore District.

2.The District Munsif,
Sholinghur

3.The Section Officer,
VR Section, High Court,
Madras(2 copies)

+ 1 cc to M/s.Sarvabhauman Associates Advocate,SR.1054
+ 1 cc to Mr.S.Silambuselvan Advocate,SR.971
+ 1 cc to M/s.A.Rajesh kanna Advocate,SR.916

S.A.No.768 of 2017
and C.M.P.No.19198 of 2017

br(co)
nr 23/02/2018