

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.10.2018

Coram

The Honourable Ms.Justice P.T.ASHA

S.A.No.1122 of 2003
and
C.M.P.No.9727 of 2003

A.Rashia Begum ...Petitioner/Defendant

Versus

1.Dilshath Begum (Deceased)
2.Abdul Malick
3.Hayath
4.Jeenath
5.Ahila
6.Nazeera
7.Aarif
8.Jameel
9.Sahida Banu

...Respondents/

(R2 to R9 brought on record as LRs of the deceased sole respondent vide order of Court dated 04.09.2018 made in C.M.P.No.2008 of 2005 in S.A.No.1122 of 2003)

This Second Appeal is filed under Section 100 of C.P.C against the judgment and decree dated 29.10.2001 made in A.S.No.5 of 1997 on the file of Subordinate Judge of Vellore, Vellore District reversing the judgment and decree dated 30.06.1993 made in O.S.No.545 of 1992 on the file of the Principal District Munsif Court, Vellore, N.A.District.

For Petitioner : Mr.T.Dhanyakumar

For Respondent - 1 : Died

Respondents - 2 to 9: Mr.Siddharth
for Mr.T.R.Rajaraman

J U D G M E N T

This Second Appeal arises against the judgment and decree passed by the learned Subordinate Judge of Vellore, Vellore District in A.S.No.5 of 1997 dated 29.10.2001 in and by which the learned Judge reversed the judgment and decree dated 30.06.1993 made in O.S.No.545 of 1992 filed by the first respondent herein for recovery of a sum of Rs.11,450/- together with interest.

2. The suit was originally dismissed by the learned Principal District Munsif, Vellore and challenging this judgment and decree, the first respondent had filed A.S.No.5 of 1997 on the file of the Sub Court, Vellore. By a judgment and decree dated 29.10.2001, the learned Subordinate Judge was pleased to allow the Appeal and directed the appellant herein to pay a sum of Rs.11,450/- together with interest at the rate of 9% per annum on the sum of Rs.10,000/- from the date of suit till the date of payment was passed. Challenging this judgment and decree, the defendant had filed the present Second Appeal.

3. The learned counsel for the appellant would submit that they have complied with the decree of the learned Subordinate Judge, Vellore by depositing the decree amount into Court and he would also submit that they have no objections to the money being withdrawn by the first respondent/plaintiff. This would in fact be in compliance of the decree passed in O.S.No.545 of 1992 since in pursuance of the decree in A.S.No.5 of 1997, the appellant herein had paid a sum of Rs.11,450/- together with interest at the rate of 9% per annum on the sum of Rs.10,000/- from the date of suit till the date of payment to the first respondent.

4. In view of the above compliance of the decree in O.S.No.545 of 1992, I do not find any necessity in reopening the Second Appeal pending except to record the submission of the counsel for the appellant that the decree amount has been deposited in the Court and they have no objection to the first respondent/plaintiff receiving the said sum.

5. In the result, the Second Appeal is disposed of with a liberty to the first respondent/plaintiff to withdraw the amount lying in the deposit of A.S.No.5 of 1997 on the file of the Sub Court, Vellore. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

mrr

To

1.The Subordinate Judge of Vellore,
Vellore District.

2.The Principal District Munsif Court,
Vellore, N.A.District.

3. The Section Officer, VR Section, High Court, Madras.

+ 1 cc to M/s. T. Dhanakumar, AdvocateSr.72339

+ 1 cc to MR. T.R. Rajaraman, Advocate Sr.72311

S.A.No.1122 of 2003

SKV(CO)
EU(05/12/2018)



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