

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

S.A.No.896 of 2000

The Mayuram Co-operative Housing
Society Ltd., ZB 102 by its
Secretary, Upstairs at Co-Op.
Urban Bank Ltd., Building,
Mahadhana Street, Mayiladuthurai

... Appellant/Defendant

Vs.

1.A.Muthukumar (Died)
2.M.Sarputhiran
3.E.Baskar
4.N.Ganapathy Subramanian
(representing themselves and the 27 plot owners
of Gandhi Nagar Colony, Mayiladuthurai)

... Respondents/Plaintiffs

Prayer:

Second Appeal filed under Section 100 of C.P.C. against
the judgment and decree dated 30.09.1999 made in A.S.No.17 of
1999, on the file of learned Principal Subordinate Judge,
Mayiladuthurai, confirming the judgment and decree dated
17.11.1998 made in O.S.No.599/96, on the file of the learned
Principal District Munsif, Mayiladuthurai.

For Appellant : Mr.A.Muthukumar
For R1 : Died
For R2 to R4 : Mr.Srinath Sridevan

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J U D G M E N T

The appellant/defendant who lost the case before the Courts
below, has filed the Second Appeal.

2. The respondent/plaintiff filed a suit for declaration
that the proposed auction sale of the suit property by the
defendant in public auction either on 23.05.1996 or on any

subsequent date is arbitrary, capricious and illegal and for Consequential Injunction restraining the defendant and his subordinates from in any way putting up auction for sale the suit property by any means either on 23.5.96 or any subsequent date and thereby interference with the use of the suit property which is set apart for common purpose and enjoyment.

3. The suit was decreed by the lower Court and the same was upheld by the Lower Appellate Court. As against the concurrent findings, the present Second Appeal has been filed.

4. Mr.A.Muthukumar, learned counsel for the appellant filed a memo, dated 22.02.2018 stating that the the appellant-society will not alienate 12,000sq.ft of lands in Gandhi Nagar Colony, Mayiladuthurai, earmarked for public purpose. The society will put construction in a portion of the said land for its office as it has no building on its own and it is functioning in a rented Building. A copy of the resolution dated 20.02.2018 is enclosed.

5. The learned counsel for the respondent has submitted that he has no objection for construction of a portion in the said land for office purpose.

6. In view of the memo filed by the appellant, this Second Appeal is dismissed. The judgment and decree dated 30.09.1999 made in A.S.No.17 of 1999, on the file of learned Principal Subordinate Judge, Mayiladuturai, confirming the judgment and decree dated 17.11.1998 made in O.S.No.599/96, on the file of the learned Principal District Munsif, Mayiladuturai is confirmed in the above terms.

7. The memo dated 22.02.2018 is taken on record and the said decree is modified it shall form part and parcel of the decree. Liberty is granted to the Society to put up a construction in a portion of the suit property for office purpose after getting approval from the competent authorities.

सत्यमेव जयते

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Sd/-
Assistant Registrar(CS IV)
//True Copy//

Sub Assistant Registrar

nvi

To

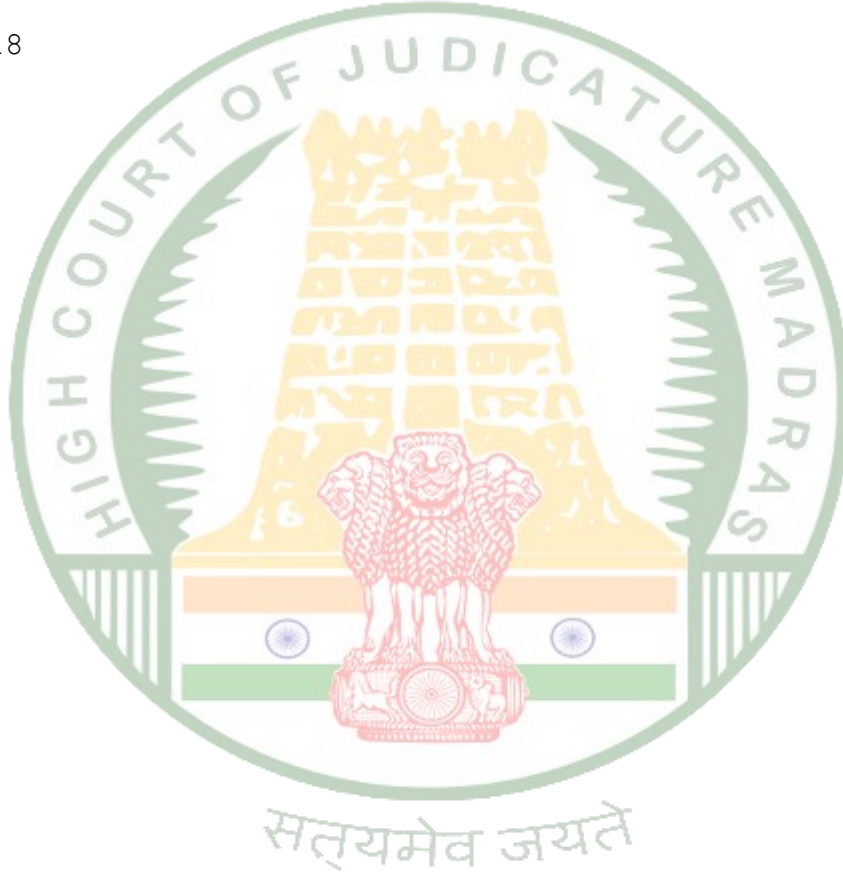
- 1.The Principal Subordinate Judge, Mayiladuthurai
- 2.The Principal District Munsif, Mayiladuthurai.
- 3.The Section Officer, VR Section, High Court,
Madras (2 Copies)

+1cc to Mr.Srinath Sridevan, Advocate, S.R.No.13558

+1cc to Mr.A.Muthukumar, Advocate, S.R.No.13531

S.A.No.896 of 2000

GMR (CO)
CS/24/04/18



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