



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Monday, the Sixteenth day of April Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.SUNDAR

CMP(MD) No.3021 of 2018

IN

SA(MD) No.793 of 2010

P.GURUVUTHAI (DIED)

1 C.PARAMASIVAM,

2 C.PARAMASIVAM,

3 MINOR.P.LAVANYA,

(MINOR 3RD PETITIONER REP BY HIS

NEXT FRIEND AND NATURAL GUARDIAN FATHER

2ND PETITIONER)

... PETITIONERS/APPELLANTS

Vs

1 P.LEELAVATHI

2 M.DEVI

3 V.MUTHUKRISHNAN

4 T.THANGESWARAN

5 C.PITCHAI

6 P.RAJAMMAL

7 S.SAMUTHIRAVEL

8 P.RADHA,

9 P.RAJA,

10 P.MUTHULAKSHMI,

11 DHANALAKSHMI

(APPELLANTS 2 AND 3 AND RESPONDENTS 8 TO 11

BROUGHT ON RECORD AS THE LRS OF DECEASED

SOLE APPELLANT, VIDE COURT ORDER DATED

25.10.2016 MADE IN MP(MD)NO.1 TO 3/2014

AND SA(MD)NO.793/2010 BY VMVJ)

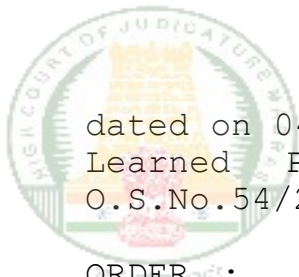
... RESPONDENTS/RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to pass an order directing the registry to substitute the certificate copies of Ex.B.17 to Ex.B.23 instead of the originals and issue the originals of Ex.B.17 to Ex.B.23 to the petitioners herein and thus render justice.

Prayer in SA(MD). 793/ 2010 :

<https://hcservices.ecourts.gov.in/hcservices/>

Memorandum of Second appeal against the Judgment and Decree of the Learned Subordinate Judge, Sivakasi passed in A.S.No.14/2009



dated on 04/12/2009 confirming the Judgment and Decree passed by the Learned Principal District Munsif court, Sattur passed in O.S.No.54/2006 dated 13/04/2009.

ORDER: This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.N. TAMILMANI, Advocate for the petitioner and of MR.C.MURUGAVEL, Advocate for MR.N.DILIPKUMAR, Advocate for R1 and of MR.S.SATEESH KUMAR, Advocate for R2,5,6,7 the court made the following order:-

Appellants (Three appellants) in the main second appeal are the three petitioners herein. Respondents 1 to 11 in the main second appeal are respondents 1 to 11 herein respectively.

2.To be noted, respondent No.1 B.Leelavathi is the plaintiff in the trial Court.

3. This petition has been filed with a prayer for returning Exhibits B.17 to B.23 (7 Exhibits), which were marked on defendants' side in the trial Court. I am informed that all the seven exhibits are original sale deeds.

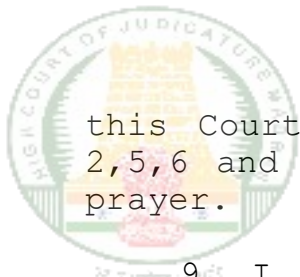
4.Learned Counsel for appellants/ petitioners submits that those are sale deeds, under which the appellants had alienated a part of the suit property in favour of third parties and third party vendees are now insisting on original sale deeds.

5. Learned Counsel for appellants submits that aforesaid reason has necessitated filing of this petition. Learned counsel for respondents opposes this petition stoutly by saying that the suit itself is for declaration of title and consequential injunction. Learned Counsel also points out that at the time of inception of the second appeal, the appellant took out a petition in MP(MD)No.1 of 2010 with a prayer for protecting possession qua suit property and the same came to be dismissed by this Court on 25.10.2016.

6. I have perused the case file. MP(MD)No.1 of 2010 came to be dismissed on 25.10.2016.

7. Moreover, learned Counsel for first respondent submits that if the original sale deeds are returned, from the very averments made by the petitioner/appellant, it is clear and certain that the same will obviously be given to the vendees, who in turn, will further alienate suit properties leading to unavoidable complications.

8. Mr.N.Tamilmani, learned Counsel on record is before this court for petitioners. Mr.C.Murugavel, learned Counsel representing the counsel on record Mr.N.Dilip Kumar for respondent No.1 is before this Court. Mr.S.Sathesh Kumar, learned Counsel on record is before



this Court for Respondents 2,5,6 and 7. To be noted, respondents 2,5,6 and 7 are the vendees and obviously they are supporting the prayer.

9. I have heard all the three learned Counsel before me and considered their submissions.

10. In the light of the fact that the suit itself is for declaration of title, the seven original sale deeds, which are sought to be returned pertain to a part of the suit property, reason being vendees are insisting on the same and all these coupled with the fact that miscellaneous petition for protecting possession qua suit properties had already been dismissed by this Court on 25.10.2016, I am not inclined to accede to this prayer.

10. Therefore, this petition will stand dismissed.

11. Though obvious, it is made clear that contents of this order will not in any manner sway the merits / rights and contentions of parties with the second appeal as and when it is taken up for hearing.

12. It will serve the interest of all concerned, if an early date of hearing of main second appeal is fixed. All the learned Counsel before me agree to argue the main second appeal during 2nd week of June 2018.

13. List the main second appeal during 2nd week of June 2018.

sd/-
16/04/2018

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE SUBORDINATE JUDGE, SIVAKASI

2 THE PRINCIPAL DISTRICT MUNSIF,, SATTUR

GJM/CSL/RNB/24.4.18-3P-3C

ORDER
IN
CMP(MD) No.3021 of 2018
IN
SA(MD) No.793 of 2010
Date :16/04/2018