

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR
S.A.No.231 of 2008
and
M.P.No.1 of 2008

1.Natarajan [deceased] ..Appellant/Appellant/1st Defendant
2.Parimala
3.Prabhu
4.Devammal
5.Muruganandam ..Appellants

[Appellants 2 to 5 brought on record
as LRs of the deceased sole appellant
vide order dated 15.09.2016 made in
M.P.Nos.1 & 2 of 2009 in S.A.No.231 of 2008]

-Vs-

1.R.K.Rudrakoti
2.V.Mahalingam ..Respondents

Prayer: Second Appeal filed under Section 100 of the Code of Civil Procedure, against the judgment and decree of the learned Additional District Judge, Fast Track Court-V, Chennai dated 17.08.2005 in A.S.No.324 of 2005, confirming the judgment and decree of the learned XVII Assistant Judge, City Civil Court, Chennai dated 04.11.2004 in O.S.No.774 of 2002.

For Appellants : No Appearance

For Respondents: No Appearance

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When the Second Appeal is taken up for consideration, there is no representation on behalf of the appellants as well as the respondents.

2. It is an admitted fact that the suit in O.S.No.774 of 2002 was filed by the respondents herein as plaintiffs, seeking partition and separate possession. By the Judgment and

Decree, dated 04.11.2004, preliminary decree for partition was passed by the Court below. As against the decree and judgment in O.S.No.774 of 2002, the first appellant [died] filed an appeal in A.S.No.324 of 2005 on the file of the learned learned XVII Assistant Judge, City Civil Court, Chennai. The First Appellate Court heard the appeal and by a judgment dated 17.08.2005, dismissed the appeal, thereby confirming the decree and judgment of the trial Court. Aggrieved by which, the appellants have come up with the present Second Appeal.

3. The Second Appeal is pending from the year 2008. The trial Court based on the pleadings as well as the evidence of the parties, particularly, the admission of the appellant in previous suit in O.S.No.11097 of 1992, wherein he has specifically admitted that all of them have equal share in the suit property. In view of such admission and evidence, the trial Court and the First Appellate Court had granted preliminary decree.

4. On perusal of the judgment of the First Appellate Court, this Court does not find any substantial question of law involved to be decided in the Second Appeal. Hence, the Second Appeal is liable to be dismissed.

5. In view of the same, confirming the judgment and decree passed by the First Appellate Court, the Second Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

sri

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Additional District Judge,
Fast Track Court-V, Chennai.

2.The XVII Assistant Judge,
City Civil Court, Chennai.

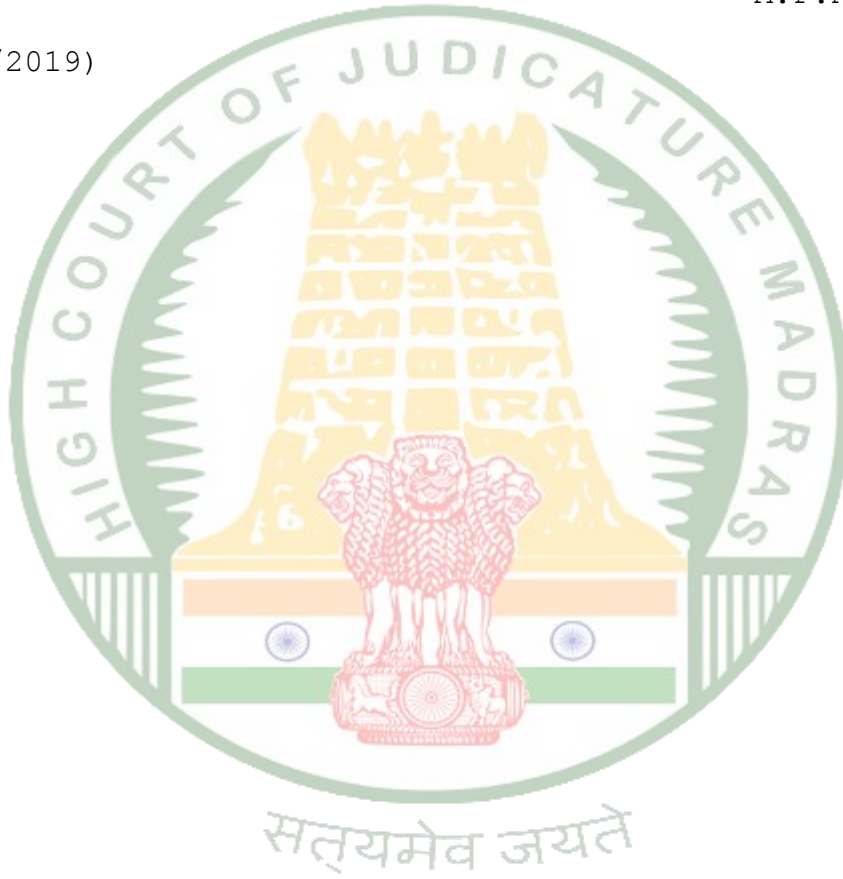
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Copy to:-

The Section Officer,
V.R.Section,
High Court, Madras - 104.

S.A.No.231 of 2008
and
M.P.No.1 of 2008

Kak (30/05/2019)



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