

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2019

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

SA.No.1529 of 2003 and
CMP.No.13987 of 2003

Ramayee (died)

1.Vadivel

2.Madhaiyan

3.Manoharan

4.Natesan

.. Appellants/Defendants 2 to 5

Vs.

1.Rathinavel (died)

...1st Respondent/Plaintiff

2.Markandan

3.Palanisamy

..2 & 3 Respondents/6&7 Defendants

R1 died, RR2 & 3 are recorded as LR's of the deceased R1, viz., Rathinavel vide order of Court dated 04.10.2019 made in SA.No.1529 of 003 as per memo dated 04.10.2019 are recorded.

PRAYER:

The Second Appeal is filed under Section 100 of CPC against the judgment and decree dated 26.02.2003 made in A.S.No.4 of 1996 on the file of Sub Court, Dharmapuri confirming Judgment and Decree dated 31.10.1995 made in O.S.No.153 of 1988 on the file of the District Munsif Court at Dharmapuri.

For Appellants : Mr.R.Rajaramani
for Mr.V.R.Annagandhi

For R2 and R3 : No Appearance
: R1 - Died

ORDER:

The second appeal has been filed as against the judgment and decree dated 26.02.2003 passed in A.S.No.4 of 1996 on the file of Sub Court, Dharmapuri confirming the judgment and decree dated 31.10.1995 passed in O.S.No.153 of 1988 on the file of the District Munsif Court, Dharmapuri.

2. The learned counsel for the appellants submitted that the plaintiff is the father and the defendants 6 and 7 in the suit are his own sons. The suit was filed for specific performance on the sale agreement dated 08.05.1985 executed by the defendants 1 to 5 in favour of the plaintiff. Per contra, the defendants 1 to 5 took a stand that on the basis of the very same sale agreement dated 08.05.1985, the sale deed was executed in favour of the sons of the plaintiff, namely the defendants 6 and 7 on 30.07.1985. Though both the courts below held concurrently and directed the defendants 1 to 5 to execute the sale deed in favour of the plaintiff, the suit was filed only for the reason that there was a dispute between the plaintiff and his sons, namely the defendants 6 and 7.

3. Now the learned counsel appearing for the appellants submitted that the sole plaintiff / the first respondent in the second appeal died, and his legal heirs are already party to the proceedings and shown as respondents 2 and 3. After the demise of the plaintiff / the first respondent, now the property already sold out in favour of the defendants 6 and 7 / respondents 2 and 3 herein. Therefore, the execution of sale deed on the basis of the sale agreement dated 08.05.1985 already over.

4. On the death of the sole plaintiff / the first respondent, the agreement for the sale goes and further on the basis of the said agreement already sale deed was executed in favour of the sons of the sole plaintiff, namely the defendants 6 and 7 / respondents 2 and 3 herein as such nothing survives in the second appeal. Therefore, recording the said submissions, the second appeal is closed. Consequently, connected miscellaneous petition is also closed. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The learned Sub Court,
Dharmapuri

2. The learned District Munsif,
Dharmapuri.

3.The Section Officer,
VR Section, High Court, Madras-104.

+1cc to Mr.V.R.Anna Gandhi, Advocate SR.101011

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CA(CO)
CB(14/02/2020)