



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 01.02.2019

DELIVERED ON : 16.04.2019

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

A.S.(MD)No.33 of 2014

and

M.P.(MD)No.1 of 2014

1.Mallika
2.A.Sudhakar
3.Shobarani
4.A.Saravanan
5.Suba Rani
6.V.Baskaran

.. Appellants/Defendants

Vs.

V.Ashok Kumar

.. Respondent/Plaintiff

Prayer :Appeal Suit has been filed under Section 96 of Civil Procedure Code, to set aside the Judgment and Decree passed in O.S.No.21 of 2011 on the file of the learned Principal District Judge, Virudhunagar District at Srivilliputhur, dated 30.08.2012.

For Appellants
For Respondent

: Mr.S.M.Anantha Murugan
: Mr.V.Sasikumar

JUDGMENT

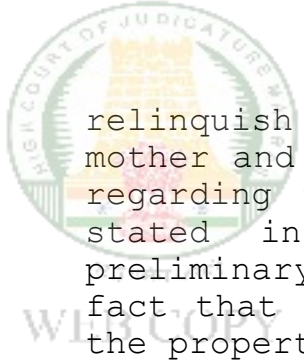
Heard Mr.S.M.Anantha Murugan, learned counsel appearing for the appellants and Mr.V.Sasikumar, learned counsel appearing for the respondent.

2.This appeal is filed against the Judgment and Decree passed in O.S.No.21 of 2011 dated 30.08.2012 on the file of the learned Principal District Judge, Virudhunagar District at Srivilliputhur.

3.When the matter was taken up for hearing, the learned counsel appearing for the appellant stated that the lower Court has left to mention that the mother and sisters of the appellant waived their right and the same was recorded in I.A.No.545 of 2011. Only for the limited purpose, this appeal is filed. The respondent has also admitted that this fact is left to be mentioned in the Judgment of the lower Court and mentioning this fact is necessary to avoid further complications.

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

4.Admittedly the mother and sisters of the appellant



relinquish their right over the property. Each party except the mother and sisters are entitled to 1/3th share. There is no dispute regarding this point. The decision in I.A.No.545 of 2011 was not stated in the preliminary decree. Hence, the Judgment and preliminary decree of the lower Court is modified by including the fact that the mother and sister are not entitled for any share in the property as they have relinquished their right.

5.The only point to be decided is the allocation of specific shares in the properties. The parties can work out their remedies before the trial Court. The appellant is directed to file a petition for the final decree before the trial Court within a period of one month from the date of receipt of copy of this order. On such filing, the trial Court is directed to complete the proceedings in the final decree matter within a period of six months therefrom.

6.With the above direction, the Appeal Suit is allowed by modifying the decree and Judgment of the trial Court by adding that the mother and sisters of the appellant relinquish their right over the property. No Costs. Consequently, M.P.(MD)No.1 of 2014 is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar(CS)

To

The Principal District Judge, Virudhunagar District at
Srivilliputhur

Copy to:

The V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+1cc to Mr. V.SASIKUMAR, Advocate, SR.No.61835

+1cc to Mr.S.M.ANANTHA MURUGAN, Advocate, SR.No.61357

A.S(MD)No.33 of 2014

16.04.2019

MRN

KK/SAR/12.06.2019/2P-6C