



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2019

CORAM:

THE HONOURABLE MRS.JUSTICE P.T.ASHA

S.A(MD)No.128 of 2016

and

C.M.P(MD)No.2452 of 2016

WEB COPY

M.L.Kesavan

... Appellant/Appellant/Plaintiff

Vs.

K.Pechimuthu

... Respondent/Respondent/Defendant

Prayer: Second Appeal is filed under Section 100 of the Code of Civil Procedure against the judgment and decree dated 02.02.2011 passed in A.S.No.34 of 2009 on the file of the Court of the Additional Subordinate Court, Dindigul by confirming the judgment and decree dated 04.06.2008 passed in O.S.No.540 of 2007 on the file of the Court of the Principal District Munsif, Dindigul.

For Appellant : Mr.D.Gnanasekaran
For Respondent : Mr.K.Samidurai

* * * * *

JUDGMENT

The unsuccessful plaintiff in both the courts below is the appellant before this Court. The suit is filed for declaration that the suit wall situate between the houses of the plaintiff and the defendant is the common wall and that the defendant must be restrained by means of injunction from destroying either wholly or partially the said common wall or from digging a pit along with the common wall for raising building or for any other purpose.

2. During the course of argument, the learned counsel appearing for the appellant would submit that now both the plaintiff and the defendant have constructed walls on their respective side flush to the original wall.

3. The very subject matter of the suit no longer exists and therefore, nothing survives for consideration in the above Second Appeal and the same is dismissed confirming the judgment of the courts below. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar(CS)



1.The Additional Subordinate Court, Dindigul.

2.The Principal District Munsif, Dindigul.

Copy to

The Section Officer, (2 copies)
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.K. SAMIDURAI, Advocate (SR-91093[F] dated 03/10/2019)

+1 CC to Mr.DR.D.GNANASEKARAN, Advocate (SR-91306[F] dated
04/10/2019)

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