

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE S.M.SUBRAMANIAM

A.S.No.359 of 2013

1. S.Murugesan
2. M.Kangeyan
3. M.Karthikeyan

... Appellants/Respondents

Vs.

1. Arshed Begum
2. A.Syed Ziauddeen
3. A.Syed Riazuddeen
4. A.Syed Niyar Niyarmuddeen
5. Zarina Begum
- 6.M.A.Fazal Haq
- 7.Mahomooda Bi

... Respondents/Petitioners

PRAYER: Appeals under Section 96 of the Code of Civil Procedure, 1908, against the judgment and decree made in I.A.No.2420/04 in O.S.No.1350 of 1998, on the file of the VI Additional Judge, City Civil Court, Chennai, dated 31.10.2006.

For Appellant : Mr.R.Loganathan

For Respondent : N.A

JUDGMENT

The Appeal Suit is filed on 02.09.2009, against the order passed in I.A.No.2420 of 2004 in O.S.No.1350 of 1998, which is the final decree in a suit for partition and separate possession. Though the appeal suit was filed in the year 2009, challenging the final decree passed in a suit for partition and separate possession, the appellants are not vigilant enough even in serving notice to the respondents in the appeal suit.

2. Near about 11 years lapsed, till today notice has not been served to any of the respondents. It is unfortunate that in a suit for partition which was contested before the Trial Court, the appellants are unable to serve notice to the respondents, not even to one respondent in the appeal suit. Under these circumstances, this Court is of the considered opinion that, no purpose would be served in the event of keeping the first appeal for pending for an unspecified period. The appellant on filing of an appeal must be vigilant in serving notice to the respondents within a reasonable period of time, in view of the fact that the suit was

contested by the respective parties before the Trial Court.

3. This being the factum, this Court is of an opinion that, no further consideration is required in the appeal suit as notice has not been served to any of the respondents even after a lapse of 11 years from the filing of the first appeal. However, a liberty is granted to the appellants to restore the appeal suit if they have served notice to all the respondents. It is made clear that the application for restoration is to be filed within a reasonable period of time. Accordingly, the Appeal Suit No.359 of 2013 stands dismissed. No Costs.

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Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

Pkn.

To

1.VI Additional Judge,
City Civil Court,
Chennai.

2.The Section Officer,
VR Section, High Court,
Madras.

A.S.No.359 of 2013

RV(CO)
GN(24/09/2020)

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