

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :04.11.2020

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Second Appeal No.1378 of 2010

Veerappan

.. Appellant /1st Plaintiff

/versus/

1.Alapakkam Village Panchayat
by its President,
Alapakkam,
Cuddalore Taluk,
Cuddalore District.

2.Thangarasu

3.Dhandapani

4.Anjapuli

(respondents 2 to 4 impleaded as
representing the Harijan Colony
People of Kambalimedu Village,
Cuddalore Taluk)

5.Mani

.. Respondents /Defendants 1 to 4 and
2nd Plaintiff

Prayer: Second Appeal has been filed under Section 100 of the Civil Procedure Code against the judgment and decree of the learned II Additional Subordinate Judge of Cuddalore dated 09.08.2010 and passed in A.S.No.37 of 2008 dismissing the appeal confirming the judgment and decree of the learned Additional District Munsif of Cuddalore in O.S.No.614 of 2005 dated 30.06.2008.

For Appellant :Mr.R.Gururaj

For Respondents:Ms.R.Revathy for R1

No appearance for R2 to R4

R5-Died (Time Expired)

J U D G M E N T

(The case has been heard through Video Conferencing)

This appeal is filed by the appellant against the concurrent findings of the Courts below.

2.Suit filed for Declaration of Title and consequently

Permanent Injunction. The plaintiffs have lost the case on two grounds. (i)non-joinder of necessary party. (ii)improper description of the suit schedule property.

3.While preferring the second appeal, the appellant has also taken out an application seeking leave to withdraw the suit and filed a fresh suit, if necessary impleading the proper parties and curing the defects in the plaint.

4.The learned counsel appearing for the 1st respondent would submit that such a leave cannot be granted, after the matter been fully contested at both the Courts below. The Courts below have held concurrently against the appellant herein.

5.Heard the learned counsel appearing for the appellant and the learned counsel appearing for the 1st respondent.

6.Considering the pleadings and findings of the Courts below, this Court finds that the appellant herein having their family property in S.No.25/7 they had donated a portion of the property to the Panchayat School and claiming right for the remaining portion of the property. In the suit, they have wrongly impleaded Alapakkam Village Panchayat instead of Kurinjipadi Panchayat Union and also all the parties, in whose name patta stands are not arrayed as parties. Finally, on that ground the suit has been dismissed and the same was confirmed by the first appellate Court in the appeal filed by the plaintiff/appellant.

7.Considering the nature of the case, this Court grants leave to the plaintiff/appellant to file a fresh suit, if necessary.

8.Accordingly, this Second Appeal is disposed of. No order as to costs. Consequently, connected Miscellaneous Petitions are closed.

सत्यमेव जयते

Sd/-

Assistant Registrar (CO)

//True Copy//

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Sub Assistant Registrar

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To:

1.The II Additional Subordinate Judge of
Cuddalore.

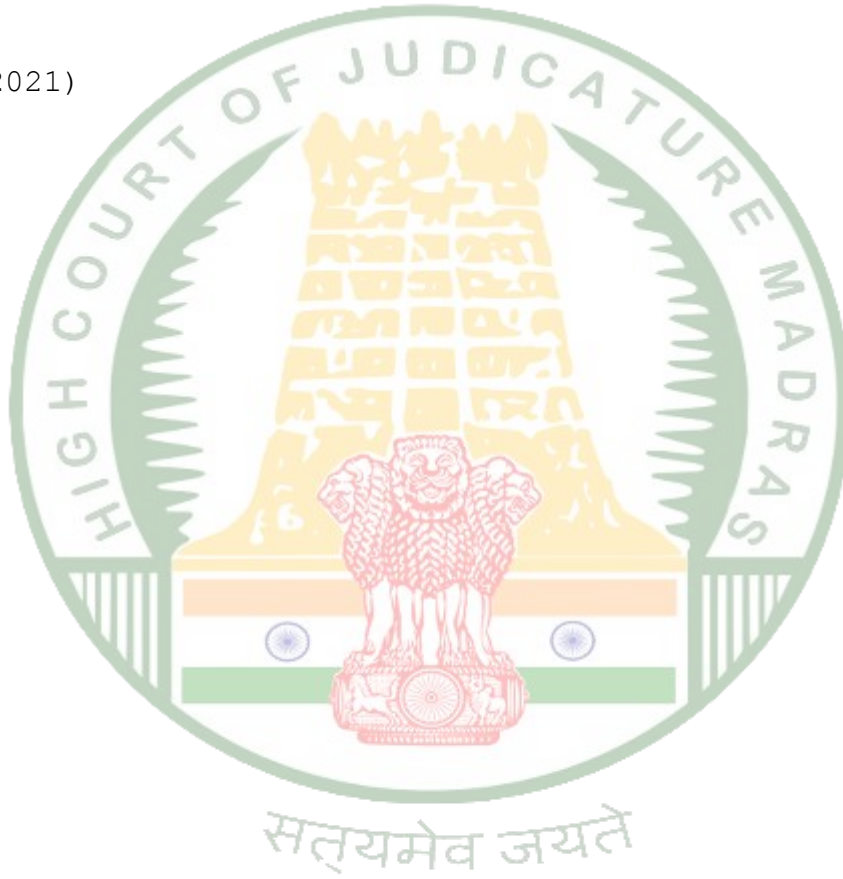
2.The Additional District Munsif of Cuddalore.

Copy To

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

S.A.No.1378 of 2010
and
M.P.Nos.1 of 2010 and 1 of 2011

KK (CO)
GN(11/05/2021)



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