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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

S.A.No.627 of 2005

and

CMP.No.8964 of 2005

1.R.Krishnamoorthy (died)
2.K.Madharasi
3.K.Rajini
4.Kalaiyarasi
5.Jothi

...Appellants/Defendants

(Appellants 2 to 5 brought on as LR's of the deceased sole appellant vide order of court dated 28.02.2013 made in CMP.No.378 of 2012 in SA.No.627 of 2005)

Vs.

K.Vadivel Pillai

...Respondent/Plaintiffs

Prayer :- This Second Appeal is filed under Section 100 of Civil Procedure Code against the judgment and decree dated 28.09.2004, in AS.No.43 of 2004 on the file of the I Additional Sub Court, Cuddalore confirming the decree and judgment dated 27.02.2004 in O.S.No.400 of 2002 on the file of the Additional District Munsif's Court, Cuddalore

For Appellants : M/s.A.Nilapher

for M/s.R.Meenal

For Respondent : Mr.S.K.Rakhunathan

JUDGMENT

The Second Appeal is directed as against the judgment and decree dated 28.09.2004, in AS.No.43 of 2004 on the file of the I Additional Sub Court, Cuddalore confirming the decree and judgment dated 27.02.2004 in O.S.No.400 of 2002 on the file of the Additional District Munsif's Court, Cuddalore.

2. At the time of admission of the second appeal, the following substantial questions of law were framed:-



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a) Whether in law the courts below are right in overlooking that the decision in SA.No.1089 of 1993 is not binding on the appellant as he was not a party to the proceedings? And

b) Whether in law the Courts below are not wrong in overlooking that the non joinder of Mani is fatal to the suit as he is a necessary and proper party?

3. In view of the judgment dated 03.01.2020 passed in the second appeal in SA.No.1221 of 2001, all the substantial questions of law, formulated by this Court in the Second Appeal, are answered in favour of the plaintiff and against the defendant.

4. Accordingly, the Second Appeal is dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional District Munsif Court,
Cuddalore.

2. The I Additional Sub Court,
Cuddalore

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

+1cc to Mr.R.Subramanian, Advocate, S.R.No.654

+1cc to Mr.S.K.Rakhunathan, Advocate, S.R.No.337

S.A.No.627 of 2005

RGN(CO)
CB(22/09/2021)