

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.12.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.538 of 2013
and M.P. No.1 of 2013

Palani Ammal

..Plaintiff/Respondent/Appellant

vs

1.Annadurai
2.Vasantha
3.Elavarasu

..Defendants/Appellants/Respondents

Prayer: Civil Miscellaneous Appeal filed under Order 43 Rule 1 (u) of the Code of Civil Procedure 1908 against the judgment and decree dated 10.02.2012 made in A.S. No.6 of 2010 on the file of the Subordinate Court, Chidambaram setting aside the judgment and decree passed by the District Munsif cum Magistrate Court, Kattumannarkoil in O.S. No.235 of 2001 dated 31.12.2008 remanding the suit back to the District Munsif cum Magistrate Court at Kattumannarkoil for fresh trial.

For appellant : Mr.Srinath Sridevan
For respondents : Mr.N.Sankaravadivel

JUDGMENT

Challenging the order of remand dated 10.02.2012 passed by the Subordinate Court, Chidambaram in A.S. No.6 of 2010 setting aside the judgment and decree passed by the District Munsif cum Magistrate Court, Kattumannarkoil in O.S. No.235 of 2001 dated 31.12.2008, the appellant has come to this Court with this appeal.

2.Learned counsel appearing for the appellant, assailing the impugned order of remand directing the Trial Court to re-hear the case once again, submitted that the order of remand is wholly un-justifiable and unsustainable in law for the reason that the Trial Court has giving its finding to all the issues raised by the Appellate Court and therefore, the question of sending back the matter to the Trial Court for re-trial is mere wastage of precious time of not only the Court but also the litigants.

3.It is at this juncture, Mr.N.Sankaravadivel, learned counsel appearing for the respondents fairly submitted that a direction given by the Appellate Court to the Trial Court to re-hear the matter is an un-wanted exercise.

4.Agreeing with the submission made by both the learned counsel to the effect that the order of remand is erroneous, this Court, placing appreciation on the submission made by Mr.N.Sankaravadivel, learned counsel appearing for the respondents and setting aside the order of remand dated 10.02.2012 which cannot be sustained in the eye of law, directs the Subordinate Court, Chidambaram to take up the matter on day today basis and dispose of the appeal, on merits and in accordance with law, preferably within three months time. With the above direction, the appeal stands allowed. Consequently, M.P. No.1 of 2013 is closed. No costs.

Sd/-
Assistant Registrar(L.A)

//True Copy//

Sub Assistant Registrar

vga

To

- 1.The Subordinate Court,
Chidambaram.
- 2.The District Munsif cum Magistrate Court,
Kattumannarkoil.
- 3.The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to Mr.Srinath Sridevan, Advocate, S.R.No.40846

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PVS (CO)
KKV/17/03/2021