



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date: 05.08.2020

CORAM

THE HONOURABLE MR.JUSTICE **N.SESHASAYEE**

WEB COPY

S.A(MD)No.300 of 2020
and C.M.P(MD)No.3573 of 2020

M.Murugesan : Appellant/Appellant/Plaintiff

Vs.

P.Ramkumar : Respondent/Respondent/Defendant

PRAYER: Second Appeal is filed under Section 100 of C.P.C, against the decree and the judgment dated 22.11.2019 rendered in A.S.No.48 of 2016, on the file of the Principal Subordinate Judge, Srivilliputtur, confirming the decree and the judgment dated 07.10.2014 rendered in O.S.No.477 of 2007, on the file of the Additional District Munsif, Srivilliputtur.

For Appellant : Mrs.P.Jessi Jeeva Priya

J U D G M E N T

Heard, the learned counsel for the appellant.

2.The issue here is about a party-wall that separates the properties of the plaintiff and the defendant in the north. So far as the southern portion is concerned, under Ext.B.1, the predecessor in title of the plaintiff and also the defendant have under Ext.B.1 agreement dated 29.03.1978 decided that the wall be a common wall for both.

3.Both the Courts below have held that the disputed wall which is described in second schedule to the plaint is a common wall and not the exclusive wall of the plaintiff.

4.This Court has carefully went through the pleadings, Judgments of the Courts below and most importantly, the Commissioner's report. Clearly, it is a question on finding of fact and this Court, does not find any apparent or underlying perversity in the findings of the Courts below.



5. In the result, the Second Appeal is dismissed and the decree and judgment, dated 22.11.2019 passed in A.S.No.48 of 2016, on the file of the Principal Subordinate Judge, Srivilliputtur, confirming the decree and the judgment, dated 07.10.2014 passed in O.S.No.477 of 2007, on the file of the Additional District Munsif, Srivilliputtur is upheld. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

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/ /2020

Sub Assistant Registrar(CS)

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To

1.The learned Principal Subordinate Judge,
Srivilliputtur.

2.The learned Additional District Munsif,
Srivilliputtur.

Copy to

The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.(2 copies)

+1 CC to M/s.P. JESSI JEEVA PRIYA, Advocate (SR-13864[F] dated
07/08/2020)

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NS (CO)

TR(19.08.2020) 2P 6C