



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2021

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

A.S.No.764 of 2005

and

C.M.P.Nos.12684/2005 & 759/2013

D.Durai Krishnan

.. Appellant/4th Defendant

Vs.

1. Rukmani Devi
2. Vijaya Lakshmi
3. Vijaya Bhaskar
4. V. Radha Bai
5. D.Sargurunathan
6. D.Lakshmikanthan
7. D.Sakthivadivelu
8. B.Sembagavalli
9. B.Shakunthala Bai
10. S.Jayashanmugham
11. S.Vaijayanthi Mala

.. Respondents

PRAYER: Appeal Suit is filed under Section 96 of C.P.C against the judgment and decree dated 15.10.2004 passed in O.S.No.735 of 1999 by the IV Additional District and Sessions Judge, Fast Track Court, Chennai.

For Appellant : Mr.T.Magendiran for
Mr.T.Velumani

For Respondents : Mr.R.Imayavaramban
for Mr.Ramalingam Associates for R1 to R3
: Ms.R.Bamini for R5

Not ready in notice
for R4, R6 ,7, 9 to 11



J U D G M E N T

The Appeal Suit is filed against the preliminary decree passed by the trial Court in the partition suit. The appellant herein is the 4th respondent. The plaintiffs/respondents 1 and 2 as well as the appellant are the legal heirs of the deceased Sachitanandam, from whom share over the suit property being claimed.

2. The trial Court on considering the evidence and the descendants of the original owner Krishnammal, the mother of Sachitanandam, had passed a preliminary decree for 1/9 share to the plaintiff the wife of the deceased Sachitanandam and the remaining 8/9 share to the other legal heirs.

3. Not satisfied with the above apportionment and preliminary decree for partition, the present appeal is filed. However, the appellant has not taken out steps to bring legal heirs for some of the deceased respondents in spite of granting time. On 08.01.2021, this Court after perusing the records observed as below:

“ Steps to bring legal representatives of the deceased respondents 4, 6, 9, 10 and 11 not taken in spite of granting time vide order dated 24.10.2016. The learned counsel for the appellant seeks one week time to verify the current living status of the litigants and file appropriate petition.”

4. Today, when the matter is listed, the learned counsel appearing for the appellant submitted that his client has instructed him to report that he wants to pursue the final decree proceedings and get the share as per decree and not interested to pursue the appeal suit.

5. Hence the Appeal Suit is disposed of confirming the judgment and decree of the trial Court. Stay granted for passing of final decree is vacated. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar (CS-IV)

// True Copy //

Sub Assistant Registrar

rpl



To

1. The IV Additional District and Sessions Judge,
Fast Track Court, Chennai.

Copy to

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

+2CCs to M/s.Ramalingam Associates , Advocate, SR.No. 5325

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and C.M.P.Nos.12684/2005 & 759/2013

KK(CO)

B.VC (06/09/2021) (24/09/2021)