



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and

THE HON'BLE MS.JUSTICE R.N.MANJULA

A.S.No.473 of 2018
and C.M.P.Nos. 12038 and 12039 of 2018

1.Celestin Rajan
2.Josephine Amala

.. Appellants

Vs

1.Sivakami
2.Chinnammal
3.Kasthuri
4.Rajendran
5.Ravichandran
6.Jayabal

.. Respondents

Appeal filed under Clause 96 of Code of Civil Procedure read with Order XLI and Order XLI-A of CPC against the order dated 28.02.2018 made in O.S.No.223 of 2010 on the file of Additional District Judge, Chengalpattu.

For Appellants : Mr.Anirudh
for M/s.Nithyaesh and Vaibhav

For Respondents : Mr.S.Thankasivan for R1
Mr.V.Shivalingam
for R2 to R6

JUDGMENT
(Delivered by M.M.SUNDRESH, J.)

This appeal has been preferred by defendants 6 and 7, who are the subsequent purchasers from the other defendants in a suit for partition filed by the first respondent/plaintiff.

2. The subject matter of the appeal is only with respect to Item 1 of the suit property and that too, preliminary decree



granted in favour of the plaintiff. The other defendants have entered into a sale deed with the appellants, who are defendants 6 and 7.

3. Today, compromise affidavits have been filed by the appellants/defendants 6 and 7 and the first respondent/plaintiff, wherein it has been stated as follows:-

"Therefore it is most respectfully prayed that this Hon'ble Court may be pleased to accept this affidavit and allow the First appeal in respect of suit item no.1 - Nanja S.No.180/2A1A measuring 0.08.0 H.A. vide Sale Deed Document No.7381/2014 dated 20-10-2014 and in respect of other suit item no.2 to 6, the First Appeal may be dismissed and the decree and judgment passed by the learned Additional District Judge, Chengalpattu in O.S.No.223/2010 dated 28.02.2018, be confirmed and to pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice."

"Therefore it is most respectfully prayed that this Hon'ble Court may be pleased to accept this affidavit and exonerate the appellants/defendants 6 and 7 and set aside the decree in respect of suit item no.1 - Nanja S.No.180/2A1A measuring 0.08.0 H.A. passed by the learned Additional District Judge, Chengalpattu in O.S.No.223/2010 dated 28.02.2018 insofar as the appellants/defendants 6 and 7 are concerned restore the sale deed dated 20.10.2014 by Document No.7381/2014 insofar as the appellants/defendants 6 and 7 are concerned and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice."

4. In view of the above, there shall be a decree in favour of appellants/* **Defendants** 6 and 7 with respect to Item No.1 of the suit schedule property, insofar as the preliminary decree granted in favour of the first respondent/plaintiff, which is accordingly set aside. Consequently, the appellants' title to Item No.1 stands confirmed. This is for the reason that other defendants are the one who sold the property in favour of the appellants. Therefore, the learned Single Judge is requested to proceed with the suit insofar as the other items are concerned, which is not a concern of the appellants.



5. The appeal stands allowed accordingly. The judgment and decree of the trial Court insofar as the declaration of share in favour of the first respondent/plaintiff in respect of Item No.1, * **Document No.7381 of 2014, dated 20.10.2014** of the suit schedule property stands set aside. No costs. Consequently, connected miscellaneous petitions are closed.

*** corrected order as per order of
this court dated 22.07.2021**

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mmi/ssm

To
The Additional District Judge,
Chengalpattu.

A.S.No.473 of 2018

RP (CO)
K.RK. (08.10.2021)