



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

S.A.No.784 of 2013

and

M.P.No.1 of 2013

1.Indirani  
2.Kannan  
3.Sasikala  
4.Navaneetha  
5.Chitra

... Appellants

.. Vs ..

Jayaprakash

....Respondent

Prayer :- Second Appeal filed under Section 100 of the C.P.C, against the Judgment and Decree of the A.S.No.24 of 2012 on the file of the Principal District Judge, Tiruvallur, dated 16.04.2013, confirming the judgment and decree in O.S.No.172 of 2008, dated 28.07.2011 on the file of the Sub-Court, Tiruvallur.

For Appellant : Mr.V.Raghavachari

For Respondent : Mr.V.S.Sivasundaram

#### J U D G M E N T

Heard the learned counsel for the appellants.

The learned counsel for the respondent would submit that the first part of the judgment in A.S.No.23 of 2012, appeal was allowed in respect of Item No.1 of the property whereby, A.S., was dismissed. In respect of Item No.2 whether it is an self acquired property or joint family property, the matter was remitted back to the Sub Court. As against the portion one, they have filed the Second Appeal. As against the order of remand in respect of Item No.2, C.M.A.No.2356 of 2013, was filed and the same was allowed on 28.03.2018.



2. Consequent thereto, the First Appeal is taken up by the learned District Judge, First Appellate Court for fresh hearing. Further, the evidence is taken and posted for further evidence. Accordingly, both the order passed in A.S.Nos.23 and 24 of 2012, were set aside.

3. After hearing both the parties, I find that A.S.No.23 of 2012 was partly-allowed in respect of Item No.1 of the property. While in respect of Item No.II, the matter was remitted back to the trial Court. As against the order of the remand, one of the party has filed C.M.A.2356 of 2013, it appears it has been allowed on 20.08.2012 and the order of remand was set aside and directed the Appellate Court to re-consider and pass orders. since the comprehensive order is passed in C.M.A.No.2356 of 2013, which in effect the judgment and decree passed in A.S.No.23 of 2012 has been set aside and hence there is nothing survives in this Second Appeal. Both the parties are at liberty to agitate the respective contention before the lower Appellate Court in A.S.No.23 of 2012 which is pending before the learned Principal District Judge, Tiruvallur and hence, this Second Appeal is closed. Consequently, connected M.P is closed.

Sd/-

Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

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To

1. The Principal District Judge, Tiruvallur

2. The Sub-Court, Tiruvallur.

Copy to: The Section Officer,  
V.R.Section, High Court, Madras-104.

+1cc to Mr.V.Raghavachari, Advocate SR.No.62036

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M.P.No.1 of 2013

SSV(CO)  
CB(17/12/2021)