



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

S.A.(MD)No.344 of 2011

WEB COPY

1.Selvi

2.Geetha

... Plaintiffs / Appellants / Appellants

-Vs-

1.Muthunayagam

2.Sundara Bai

3.Retnabai

4.Swornam

5.Sulochana

6.Vasantha

7.Rajam

8.Selvi

9.Kamaraj

10.Amose

11.Jeya

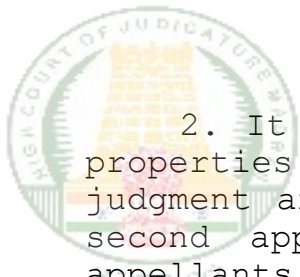
... Defendants 2 to 12 / Respondents /
Respondents

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the judgment and decree dated 14.12.2009 of the Subordinate Judge, Kuzhithurai and made in A.S.No.27 of 2006 on his file, confirming the judgment and decree dated 28.11.2005 of the II Additional District Munsif Court, Kuzhithurai and made in O.S.No.536 of 1997.

For Appellants	: Mr.K.N.Thampi
For R1 & R2	: Mr.S.C.Herold Singh
For R3 & R9	: exparte
For R4 to R8, R10 & R11	: No appearance

JUDGMENT

The plaintiffs in O.S.No.536 of 1997 on the file of the second Additional District Munsif, Kuzhithurai, are the appellants in this second appeal. The suit was one for partition. The trial Court dismissed the suit on the ground that the suit was bad for partial partition and it is also vitiated by non joinder of necessary parties. Though the appellate Court held that the suit was not bad for non joinder of necessary parties, it sustained the finding of the trial Court that the suit was bad for partial partition. Challenging the same, this second appeal came to be filed.



2. It is obvious that the plaintiffs have not included all the properties that have to be brought for partition. Therefore, the judgment and decree passed by the Courts below are confirmed. The second appeal is dismissed. However, I give liberty to the appellants herein to institute a fresh suit for partition, in which, they have to necessarily include all the items that have to be brought for partition and also implead all the necessary parties.

3. With this liberty to the appellants, the second appeal is dismissed. No costs.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmi

To

1.The Subordinate Judge, Kuzhithurai.

2.The II Additional District Munsif, Kuzhithurai.

3.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-25278[F] dated 05/08/2021)

+1 CC to M/s.K.N.THAMPI, Advocate (SR-25424[F] dated 05/08/2021)

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