



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Civil Appellate Jurisdiction)

Tuesday, the Twenty Third day of February Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice N.SATHISH KUMAR

SA(MD). No.56 of 2012

WEB COPY

S.AYYAPPAN

... Appellant/Appellant/Defendant

Vs

1 D.SHANMUGAM

2 D.SANTHANAM

3 D.GOMATHI AMMAL

4 D.SUDALAIMUTHU (DIED)

5 S.JEYALAKSHMI

6 S.VENUKA

... Respondents/Respondents/Plaintiffs

(Respondent Nos.5 and 6 are brought on record as legal representatives of the deceased fourth respondent vide order of this Court dated.24.01.2020 made in C.M.P.(MD).No.8139 to 8141 of 2019 in S.A.(MD).No.56 of 2012)

Prayer:-Second Appeal filed under Section 100 C.P.C., against the judgment and decree dated 15.06.2011 passed in A.S.No.73 of 2009 on the file of the Principal Subordinate Court, Tirunelveli in confirming the judgment and decree dated 21.07.2007 passed in O.S.No.234 of 2003 on the file of the I Additional District Munsif Court, Tirunelveli.

DECREE:-This Second Appeal coming on for hearing on this date, upon perusing the grounds of Appeal, the judgments and decrees of the Lower Appellate Court and the Court of First Instance and the material papers in the Suit and upon hearing the arguments of MR.M.P.SENTHIL, Advocate for the Appellant and of MR. ANANTH C.RAJESH, Advocate for the Respondents 1 to 3 and 5 and 6 and the Fourth Respondent reported dead, this Court doth order and decree as follows,

(1) That the judgment and decree dated 15.06.2011 passed in A.S.No.73 of 2009 on the file of the Principal Subordinate Judge, Tirunelveli and the judgment and decree dated 21.07.2007 passed in O.S.No.234 of 2003 on the file of the I Additional District Munsif, Tirunelveli. be and hereby are confirmed and this Second Appeal is dismissed; and

(2) That there be no costs in this Second Appeal.



Schedule of Property

I Schedule

There is a residential house bearing Door No.18A (Now 18A1) and 18A2) with upstairs in Anavaratha Sundara Vinayagar Koil Street, Pazhaya Pettai, Tirunelveli Taluk, measuring 45' North-South on the west 43'6" on the east : 15" east-west with compound wall and stair case on the north east in T.S.No.1929 part bounded by

North: the common wall (AB) in the plan belonging to the plaintiffs and defendant in T.S.No. 1929 part and D.No. 18.

East: T.S.No.1930 Muthusamia Pillai's house

South: T.S.No.1923 common lane (once odai)

West: the III Schedule north-south pathway in T.S.No.1929 part and T.S.No.1928 the house properties of Arumugam and Belasubramanian shown as ABCD in the plan.

II Schedule

The court yard portion of Door No.18-A Anavaratha Sundara Vinayagarkoil North Street, Pazhaya Pettai, Tirunelveli Taluk in T.S.No.1929 part (part of I Schedule) shown as ABFE in the plan measuring 15' east west and 7' north-south bounded by

North: AB Wall (Common wall) D.No.18

East: T.S.No.1930 Muthusamia Pillai house

South: House portion of Door No.18A

West: the III Schedule common pathway of the plaintiff's and the defendant

With Stair case on the north-east touching AB wall leading upstairs of Door No.18(A) (18A1) and the door way on the north-west opening into the III Schedule property.



III Schedule

The North-South common Pathway lying west of the houses bearing Door Nos. 18 and 18A Anavaratha Sundaravinayagar koil North street, Pazhayapettai, Tirunelveli in T.S.No.1929 part measuring North-south 30 cc(82'6") and 1 1/4 cc East-West 3'6" shown as DGH1 in the plan bounded by
North: Anavaratha Sundara Vinayagarkoil North street, T.S.No.1940,
East: House of the plaintiffs and the defendant Nos.18 and 18A
South: Common lane T.S.No.1923
West: T.S.No. 1928 part of houses of Arumugam and Balasubramanien

Sd/-

Assistant Registrar(CS-)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TO

1. The Principal Subordinate Judge, Tirunelveli.
2. The I Additional District Munsif , Tirunelveli.

Copy to:

The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai - 2 Copies

+1 CC to Mr.M.P.SENTHIL, Advocate (SR-6835 dated 24/02/2021)

+1 CC to Mr.M.S.JAWAHARLAL, Advocate (SR-6819 dated 24/02/2021)



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ORDER DATED : 23/02/2021

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DECREE

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SA(MD) . No.56 of 2012

Nature of Decree:- Dismissing the judgment and decree dated 15.06.2011 made in A.S.No.73 of 2009 on the file of the Principal Subordinate Court, Tirunelveli and confirming the judgment and decree dated 21.07.2007 made in O.S.No.234 of 2003 on the file of the I Additional District Munsif Court, Tirunelveli, etc., as stated within.

VB (26.03.2021) 4P 7C