



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

S.A(MD)No.976 of 2014

and

M.P.(MD)No.2 of 2014

WEB COPY

1.Selvakumari

2.Mutharasan ... Appellants / Respondents / Defendants

-Vs-

1.Saraswathi

2.R.Sampath

3.R.Santhakumari

4.N.Rani

5.R.Rajendran

6.Parvathi

7.Saraswathi

8.Umaselvi

9.Lakshmipriya ... Respondents / Appellants / Plaintiffs

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the judgment and decree passed in A.S.No.37 of 2010 on the file of the Appellate Tribunal / Additional Sub Court, Thanjavur, dated 30.10.2010 modifying the decree and judgment passed in O.S.No.97 of 1996 on the file of the District Munsif Court, Thanjavur, dated 10.11.2009

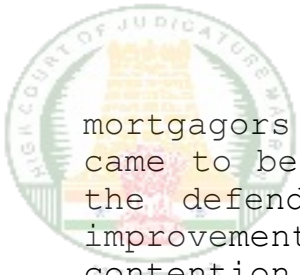
For Appellants : Mr.M.R.S.Prabhu
for M.V.K.Vijayaragavan

For Respondents : Mr.N.Suresh

JUDGMENT

The defendants in O.S.No.97 of 1996 on the file of the District Munsif Court, Thanjavur, are the appellants in this second appeal.

2. The suit was filed for redemption of mortgage. The suit property was mortgaged by the second plaintiff Saraswathi in favour of the deceased defendant Pattammal in the year 1961. As per the terms of Othi, Pattammal / mortgagee was to be in possession of the property for 27 years. It was also agreed that if any improvement was made by the mortgagee, at the time of redemption, the same will be paid for by the mortgagor. Though mortgage period expired, the mortgagee did not hand over the property. Nor the



mortgagors immediately filed any suit for redemption. Such a suit came to be filed in the year 1996. The suit was decreed. However, the defendants filed an appeal pointing out that the value of improvements had not been determined. Accepting the said contention, the matter was remanded to the file of the trial Court. Post remand, the trial Court fixed the value of improvements at Rs.4,00,000/-. Contending that the valuation had been made on the higher side, the plaintiffs filed A.S.No.37 of 2010 before the Additional Sub Court, Thanjavur. The first appellate court by the impugned judgment and decree dated 30.10.2010 reduced the valuation to Rs.2,27,478/-. Aggrieved by the same, the defendants have filed this second appeal.

3. The learned counsel appearing for the plaintiffs / mortgagors/ respondents would submit that the amount as determined by the first appellate court had already been deposited by them on 11.11.2011 to the credit of the suit.

4. The question of valuation is a pure question of fact. No substantial question of law arises for consideration. The second appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

- 1.The Appellate Tribunal / Additional Sub Judge, Thanjavur.
- 2.The District Munsif Court, Thanjavur.

Copy To

The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court, Madurai.(2 copies)

+1 CC to M/s.N.SURESH, Advocate (SR-28399[F] dated 07/09/2021)
+1 CC to M/s.V.K.VIJAYARAGAVAN, Advocate (SR-28473[F] dated 07/09/2021)

Judgment made in
S.A(MD)No.976 of 2014
and M.P.(MD)No.2 of 2014
06.09.2021

MA (CO)

TR(08.09.2021) 2P 7C

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