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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 13.09.2021

DELIVERED ON : 20.09.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD) .No.1775 of 2019

and

C.M.P. (MD) No.9192 of 2019

1.Veeran

2.Ganga

3.Gokul

...Petitioners/Defendants

Vs.

M.Meenakshi

...Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to strike off the suit proceedings in O.S.No.363 of 2019 on the file of the learned District Munsif, Dindigul, Dindigul District and allow this Civil Revision Petition.

For Petitioners : Mr.G.Gomathi Sankar

For Respondent : No Appearance

O R D E R

The Civil Revision Petition has been filed by the Petitioners/Defendants, to strike off the suit proceedings in O.S.No.363 of 2019 pending on the file of the learned District Munsif, Dindigul, Dindigul District and allow this Civil Revision Petition.

2. Heard Mr.G.Gomathi Sankar, learned counsel appearing for the petitioners. Though, the name of the respondent was printed in the cause list there is no representation on the side of the respondent by person or through his Counsel.

3. Initially, the first petitioner herein has filed a suit in O.S.No.138 of 1998 on the file of the learned District Munsif, Dindigul, for declaration and permanent injunction. The suit property is located in Door No.14, T.N.1270 in Rajakka Patti. The above suit was partly decreed on 20.02.2001 by the learned I Additional Munsif, Dindigul and declared 1/2 share in the suit properties to the 1st revision petitioner/plaintiff.

4. Against the said decree, dated 20.02.2021 the defendants 1 & 2 in O.S.No.139 of 1998 have preferred an appeal in A.S.No.119 of 2002 on the file of the Principal Subordinate Court, Dindigul and



the aforesaid appeal was dismissed and the Appellate Court has modified the Judgment as the entire property belonged to the plaintiff.

5. Again, the defendants 1 & 2 in the suit in O.S.No.139 of 1998 filed a second appeal in S.A.(MD)No.984 of 2008. In the aforesaid second appeal, the revision petitioner has filed an injunction petition in C.M.P.(MD)No.669 of 2016 and the same was closed on 18.09.2018 with some observations.

6. Subsequently, the plaintiff in O.S.No.363 of 2019 was added as R-4 in the second appeal. She claimed title through the second defendant in O.S.No. 138 of 1998 who lost his case in the suit and appeal. The second appeal is still pending.

7. Without disclosing the suit, appeal and second appeal, the plaintiff in O.S.No.363 of 2019 filed the suit for bare injunction against this Civil Revision Petitioners.

8. As on date, the rights of the second defendant in O.S.No.138 of 1998 denied in the suit and also confirmed by appeal. The plaintiff in O.S.No.363 of 2019 claimed rights only through the second defendant/Chokkanathan.

9. Since the parties in O.S.No. 363 of 2019 are parties in the second appeal in S.A.(MD)No.984 of 2008 and the properties are the same, only the plaintiff in O.S.No.363 of 2019 seeks his remedy in second appeal. But, the suit in O.S.No.363 of 2019 only seeks remedy in the second appeal.

10. But, the suit in O.S.No.363 of 2019 was filed without any averments of the second appeal. Since suppression of facts this Court is inclined to allow this Civil Revision Petition

11. Finally, this Civil Revision Petition is allowed. The Plaint in O.S.No.363 of 2019 and the entire proceedings is struck off on the file of the learned District Munsif, Dindigul. No Costs. Consequently, connected miscellaneous petition is closed.

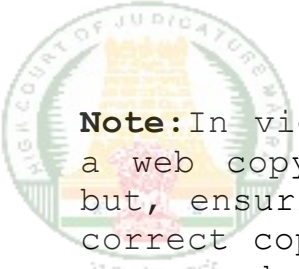
Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



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To

The District Munsif, Dindigul,
Dindigul District.

+1 CC to M/s.G.GOMATHI SANKAR, Advocate (SR-29635[F] dated
20/09/2021)

**C.R.P. (MD) .No.1775 of 2019
20.09.2021**

PS (CO)
SB(28.09.2021) 3P 3C