



WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.07.2022

Coram

THE HON'BLE Mr.JUSTICE C.V.KARTHIKEYAN

S.A.No.756 of 2005
and
C.M.P.No.10539 of 2005

Absha @ Nathumbi	...	Appellant
	Vs	
1.Maju @ Noorunissa		
2.Sikkandhar		
3.Mohammed Mubarak	...	Respondents

PRAYER:The Second Appeal filed under Section 100 of CPC, against the judgment and decree made in I.A.No.1779 of 1982 in O.S.No.28 of 1977 dated 29.09.2000 on the file of the Principal Sub-Court, Pondicherry confirming the judgment and decree made in A.S.No.10 of 2001 dated 27.11.2001 on the file of the Additional District Court, Pondicherry.

For Appellant	: M/s.B.Jagannath for A.Jinasenan
Respondents	: No appearance

**JUDGMENT**

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The second appeal had been actually filed in the year 2002 and taken on file on the requirements of the Registry being complied with in the year 2005. The first hearing date was on 29.07.2005, wherein, the following was noted

“ At the request of the learned counsel for the appellant, adjourned by two weeks ”

Then it came up for hearing on 12.08.2005, wherein, the following was noted

“At request of the appellant's counsel, post it after four weeks ”

It was then listed on 19.10.2005, wherein, the following was noted

“At request, post on 26.10.2005 and then on 26.10.2005, notice was directed.

2.It is thus seen that the appeal had not been admitted and substantial questions of law had not been framed. The appeal had not been admitted primarily because it had been filed questioning the final decree application.



In all arises from O.S.No.28 of 1977.

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3.A preliminary decree for partition had been passed. Thereafter, an application for final decree under Order 20 Rule 18 CPC had been filed in I.A.No.1779 of 1982. A Commissioner had been appointed and the Commissioner had also filed his report with plea on 17.06.1992. Final order had been passed in I.A.No.1779 of 1982 in O.S.No.28 of 1977 by the Principal Sub Judge at Puducherry. Thereafter, A.S.No.10 of 2001 has been filed. The Judgment in A.S.No.10 of 2001 was passed on 27.11.2001 by the Additional District Judge at Puducherry.

4.The present second appeal had been filed questioning the said final order passed by the trial Court and by the first appellate Court. Along with the appeal C.M.P.No.10539 of 2005 had also been filed seeking stay. On 26.10.2005, the following was ordered by the Court “ *Notice returnable by three weeks. Private Notice is also permitted.*” No affidavit has been filed with respect to the service or otherwise of the said notice. Even otherwise, there is no record to evidence that the appellant herein had filed any appeal against the preliminary decree. An appeal against the final decree would not



lie. The final decree had been passed in the year 2000. It is now nearly 22 years. Specifically stay has also not been granted by this Court. No legal point arises for admitting the appeal. No arguments have been advanced regarding any substantial questions of law.

In view of the above, the second appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index: Yes/No
Internet: Yes/No
sms

19.07.2022

To

1. The Principal Sub-Court, Pondicherry.
2. The Additional District Court, Pondicherry.
3. The Section Officer, VR Section,
Madras High Court.



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C.V.KARTHIKEYAN,J.

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