



SA.No.783/2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.06.2022

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

SA.No.783/2005 & CMP.Nos.12152, 12153 & 12154/2016

Kanthamani Ammal

..

Appellant /
Plaintiff

Versus

1.Santhanakrishnan

2.Krishnan

..

Respondents
/ Defendants

Prayer:- Second Appeal filed under Section 100 of CPC against the judgment and decree dated 24.11.2003 made in AS.No.75/2002 passed by the learned Principal Subordinate Judge, Chengalpattu District confirming the judgment and decree dated 25.02.2002 made in OS.No.399/1986 passed by the learned District Munsif, Chengalpattu insofar as granting alternative relief of payment of Rs.15,000/- towards the value of the suit property and rejecting the claim for mesne profits are concerned.



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For Appellant : Mr.S.Sathish Rajan
For Respondents : No appearance

JUDGMENT

- (1)The Second Appeal had not been admitted. I really wonder why the Second Appeal had been filed. The plaintiff is the appellant before this Court. The plaintiff had filed the suit in OS.No.399/1986 before the District Munsif Court at Chengalpattu seeking declaration of title and also for recovery of possession and if recovery of possession is not granted for mesne profit for use and occupation by the defendants @ Rs.15,000/- p.m.
- (2)During trial, the suit was decreed by granting the relief of declaration of title. The relief of recovery of possession was also granted and also the plaintiff was given the relief of getting the mesne profits from the defendants. The plaintiff then filed an appeal and the appeal was naturally dismissed since there was no cause to file the appeal. The plaintiff then filed the Second Appeal. Again, it has not been admitted since there is no case.
- (3)The plaintiff should take up steps to file necessary Execution Petition to



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put the decree which they have, into effect.

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(4)The learned counsel for the appellant states that necessary permission may be granted to file the Execution Petition. However, there is no point in granting any permission particularly because the right to file an Execution Petition is inherent and no permission need be granted. The appellants to take necessary steps to implead the Legal Representatives in the Execution Petition, if at all they are advised to do so.

(5)Hence, the Second Appeal is **dismissed**. Consequently, connected miscellaneous petitions are also dismissed. The plaintiff / legal representatives of the plaintiff may take necessary steps in accordance with law to put the decree into effect by filing necessary Execution Petition. No costs.

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AP

Internet : Yes



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To

1.The Principal Subordinate Judge,
Chengalpattu District.

2.The District Munsif
Chengalpattu.

3.The Section Officer
VR Records, High Court
Madras.



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C.V.KARTHIKEYAN, J.,

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