



S.A.No.605 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **05.09.2022**

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

S.A.No.605 of 2022
and
C.M.P.No.12007 of 2022

K.Elizabeth

...Plaintiff/Respondent/Appellant

Vs.

1.B.Kamarunesa
J.Saradha (deceased)
2.J.Raja
3.J.Anantharaman
4.J.Maheswari
5.J.Sathiyavani
6.J.Chitra
7.J.Devsayanam
8.J.Poongothai
9.J.Queen

10.The Tahsildar,
Egmore,
Nungambakkam Taluk,
Chennai – 600 034. ...Defendants/Appellants/Respondents



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PRAYER: Second Appeal filed under Section 100 of the Code of Civil Procedure against the Judgment and Decree dated 19.11.2019 in A.S.No.48 of 2019 on the file of the learned III Additional Judge, City Civil Court, Chennai, by reversing the Judgment and Decree passed in O.S.No.727 of 2012 dated 19.02.2018 on the file of the learned III Assistant Judge, City Civil Court, Chennai.

For Appellant : Mr.G.Prem Anand Rao

For Respondent : Mr.Krishna Ravindran
for Mr.A.Charles Darwin
Caveator counsel for R1

JUDGMENT

The Second Appeal arises against the Judgment and Decree in A.S.No.48 of 2019 passed by the learned III Additional Judge, City Civil Court, Chennai, in and by which the learned Judge has reversed the Judgment and Decree in O.S.No.727 of 2012 on the file of the learned III Assistant Judge, City Civil Court, Chennai. The plaintiff is the appellant.



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2.The above suit has been filed by the appellant herein for a declaration that she is the absolute owner of the suit property and to declare the registered Sale Deed dated 16.04.2009 executed in favour of the 1st defendant as null and void and for a permanent injunction restraining the defendants 1 and 3 to 10 or their men, agents or anybody acting on behalf of the defendants and interfering with the peaceful possession and enjoyment of the suit property by the plaintiff. The suit was decreed and the defendants had filed an appeal in A.S.No.48 of 2019 on the file of the learned III Additional Judge, City Civil Court, Chennai.

3.Pending the appeal, the defendants had filed additional documents which were produced in the open Court and the same had been received as evidence and marked as Ex.A.21 to Ex.A.23 before the Lower Appellate Court. The Appellate Court on the basis of the documents marked as Ex.A.21 to Ex.A.23 has allowed the appeal. Aggrieved over the same as the Appellate Court has not followed the



procedure and permitted the appellants to cross examine the witness on the documents, the appellant is before this Court.

4.The learned counsel for the appellant would contend that none of the documents were produced before the trial Court. That apart, the documents that were filed were only xerox copies of the documents. The learned counsel for the contesting defendant/caveator would concede that the procedure has not been followed and the matter may be remitted back to the Appellate Court.

5.Since the appeal is being disposed of on a preliminary point I have not discussed the merits of the case. Suffice it to state that the Judgment of the learned III Additional Judge, City Civil Court, Chennai, is set aside and the Second Appeal is allowed remitting the matter back to the Appellate Court for fresh consideration of the First Appeal and the documents filed shall be received in evidence only after the Appellate Court hears the objections of the appellant/plaintiff. Thereafter, the Court shall proceed to dispose of the First Appeal



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within a period of three months from the date of receipt of a copy of this Judgment. The Second Appeal is allowed with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No
Internet : Yes/No
Speaking order / Non speaking order
mps

To

1.The III Additional Judge,
City Civil Court,
Chennai.

2.The III Assistant Judge,
City Civil Court,
Chennai.

P.T. ASHA, J,



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