



S.A.No.92 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2022

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

S.A.No.92 of 2012

and

M.P.Nos.1 of 2012 & 2 of 2014

K.Mayilvaghanan

... Appellant

Vs

1. N.Sinduja

2. Sarafath Ali

(R2 impleaded as a party of respondent
vide Court order dated 30.11.2018 made
in M.P.No.1 of 2014 in S.A.No.92 of 2012)

... Respondents

PRAYER: Second Appeal filed under Section 100 of C.P.C., against the Judgment and Decree dated 30.06.2011 in A.S.No.324 of 2009 on the file of the VII Additional City Civil Court, Chennai, partly allowing the Judgment and Decree dated 04.01.2008 in O.S.No.5977 of 2005 on the file of the VI Assistant City Civil Court, Chennai

For Appellant : Mr.S.Senthil Kumar

For Respondents : R1 – No appearance
Mr.S.Elam Bharathi for R2



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JUDGMENT

WEB COPY The defendant is the appellant in the second appeal.

2. The respondent/plaintiff filed a suit seeking for the relief of partition and separate possession of the open trace portion over the super structure of the ground floor and the first floor and for other consequential reliefs.

3. The Trial Court, on considering the facts and circumstances of the case and after considering the oral and documentary evidence, passed a preliminary decree and also granted consequential relief sought for by the plaintiff. Aggrieved by the same, the defendant filed an appeal in A.S.No.324 of 2009 before the VII Additional City Civil Court, Chennai. The lower Appellate Court, on re-appreciation of the oral and documentary evidence, modified the Judgment and Decree of the Trial Court and disallowed the suit insofar as relief (B) is concerned and all the other reliefs were confirmed. Aggrieved by the same, the defendant has filed the present second appeal.

3. When the matter was taken up for final hearing on 28.02.2022,



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it was brought to the notice of this Court that the share belonging to the appellant/defendant, which was identified as the first floor of the property, has already been sold by the Indian Overseas Bank for recovering the amounts due from the appellant and a sale certificate was also issued in favour of the second respondent on 23.10.2019. That apart, the first respondent has also executed a sale deed in favour of the second respondent with respect to the ground floor by virtue of a registered sale deed dated 27.04.2013. Thus there is no property left for the appellant and the first respondent to contest this case any further since the second respondent has become the absolute owner of the property.

4. When the matter was taken up for hearing today, this factual scenario was confirmed by both the sides. In view of this subsequent development, there is nothing much to be decided in the second appeal since the dispute between the appellant and the first respondent no longer survives and the second respondent has already come into the picture as the absolute owner of the property. Therefore getting into the merits of the case will only be an academic exercise, without any fruitful result arising therefrom.

5. In the result, the second appeal is disposed of by recording the



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subsequent development wherein the second respondent is the absolute owner of the entire suit property. Consequently, connected miscellaneous petitions are closed. Considering the facts and circumstances of the case, there shall be no order as to costs.

07.03.2022

Index :Yes/No

Internet :Yes/No

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To

- 1.The VII Additional Judge, City Civil Court, Chennai.
- 2.The VI Assistant Judge, City Civil Court, Chennai.

N. ANAND VENKATESH, J.



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