



S.A.No.948 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2022

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

S.A.No.948 of 2022

A.Ranganathan

...Appellant

Vs

Tmt.Ranganayaki (died)

1.V.K.Velusamy

2.V.K.Ranganathan

3.Lakshmi

4.A.Prithviraj

5.A.Jothi

6.Ammalu

7.V.K.Rajagopal

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8.P.A.Ramasamy

9.Jayachandran

10.R.Selvaraj

11.R.Sathyamurthi

12.R.Thangapazhan

13.Indirani

14.Pushpalatha

15.Malarvizhi

... Respondents

Prayer: The appeal is filed under Section 100 of the Code of Civil Procedure against the Judgement and Decree passed on 10.04.2018 made in A.S.No.13 of 2015 on the file of the III Additional District and Sessions Judge of Coimbatore, confirming the Judgement and Decree dated 28.01.2013 made in O.S.No.760 of 2008 on the file of the III Additional Subordinate Judge of Coimbatore.



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For Appellant : Mr.J.Saravana Vel

JUDGEMENT

The 3rd defendant is the appellant before this Court challenging the concurrent Judgement and Decree passed in a suit for partition.

2. The 1st and 2nd defendants in the very same suit had filed an appeal in S.A.No.548 of 2019 challenging the Judgement and Decree passed by the III Additional District and Sessions Court, Coimbatore in A.S.No.78 of 2013 confirming the Judgement and Decree in O.S.No.760 of 2008 passed by the III Additional Sub Judge, Coimbatore.

3. This Court by Judgement dated 13.08.2019 was pleased to



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dismiss the appeal. While dismissing the Second Appeal, this Court had observed that the plea of oral partition which has been projected by the defendants was an after thought and not supported by evidence.

4. Considering the fact that the defendants have failed to prove the oral partition and taking into account the fact that the suit property belonged to one Gopala Konar, the learned Judge has confirmed the concurrent Judgement and Decree of the Courts below.

5. The learned Judge had also observed that the defendants had failed to establish that the plaintiffs have been ousted from the possession of the suit property beyond the statutory period.

6. Considering the fact that this appeal also arises from the very same suit, the Judgement passed in S.A.No.548 of 2019 would therefore bind on the appellant herein as well.



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7. Taking into account the fact that no substantial question of law has been made out and in the light of the Judgement passed in S.A.No.548 of 2019 dated 13.08.2019, the above Second Appeal stands dismissed. No costs.

22.11.2022

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Index : Yes/No

Speaking order/non-speaking order

To,

1.The III Additional District and Sessions Judge,
Coimbatore.

2.The III Additional Subordinate Judge,
Coimbatore.

P.T.ASHA, J.,

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