



S.A.(MD) No.166 of 2011

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2022

CORAM : JUSTICE N.SESHASAYEE

S.A.(MD) No.166 of 2011

P.Sasikumar

... Appellant/Appellant/
1st Defendant

-VS-

1.Lekshmibai Thankachi

2.Padmakumaran Thampi

3.Rudraprasadan Thampi

... Respondents 1 to 3/
Respondents 1 to 3/Plaintiffs

4.Karunakaran Thampi

... 4th Respondent/4th Respondent/
2nd Defendant

Prayer:- Appeal filed under Section 100 of Civil Procedure Code to set aside the judgment and decree dated 29.11.2010 made in A.S.No.22 of 2008 on the file of Subordinate Court, Padmanabhapuram confirming the judgment and decree made in O.S.No.108 of 2006 on the file of Additional District Munsif, Eraniel dated 19.12.2007.

For Appellant : Mr.Russel Raj

For R1 to R3 : Mr.K.Sree Kumaran Nair

For R4 : No appearance



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J U D G M E N T

The unsuccessful 1st defendant is the appellant herein. The suit was laid by the plaintiffs/respondents 1 to 3 herein claiming the southern 25 cents comprised in S.No.183/3, which is described as Schedule 'A' in the suit and another 34 cents in S.No.181/3C and is described as Schedule 'B' in the suit, it lies contiguous to Schedule 'A'. According to the plaintiffs, Schedule 'A' property belonged to the 1st plaintiff and Schedule 'B' property belonged to plaintiffs 2 and 3 and that Schedule 'A' property has been wrongly assigned S.No.183/3, and that it should come under S.No.181/3C. While so, the 2nd defendant, who is the brother of the 1st plaintiff, has dealt with Schedule 'A' and Schedule 'B' properties and sold the same to the 1st defendant with no semblance of right. When the 1st defendant attempted to interfere with the possession of the suit properties, the plaintiffs joined to institute a suit for injunction in O.S.No.108 of 2006. The suit came to be decreed successively both by the trial Court as well as by the first appellate Court.



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2. The second appeal is not yet admitted.

3. Today, when the matter is taken up, both sides made a joint statement that the parties have entered into a compromise to sell the property and divide the sale consideration in the ratio of 70 : 30 with 70% going to the plaintiffs. A xerox copy of this compromise has also been circulated to this Court.

4. The learned counsel for the appellant submitted that in view of this development and inasmuch as the appeal is laid only against the decree for bare injunction, he, on instruction, does not press this appeal. Necessary endorsement is made by both the counsel for the appellant and also the appellant.

5. Accordingly, the second appeal is dismissed as not pressed. No costs.

28.06.2022

Internet: Yes
Index: Yes/No

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N.SESHASAYEE, J.

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To

- 1.The Subordinate Court,
Padmanabhapuram.
- 2.The Additional District Munsif Court,
Eraniel.

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