



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Friday, the Ninth day of September Two Thousand Twenty Two

WEB COPY

PRESENT
The Hon`ble Mr.Justice N.SESHASAYEE

SA(MD) . No.328 of 2014

1 ARUL MARY, W/O. SANTHANAM,
MUDITHAZHAI, (MARUTHANAYAGIPURAM),
MELAMARUNKUR POST,
SIVAGANGAI DISTRICT ... Appellant / Respondent /
Plaintiff

Vs

THAVAMANI,
S/o.LATE. RAJU, KURUNTHAKUDI,
MELAMARUNKUR POST,
SIVAGANGAI DISTRICT ... Respondent / Appellant /
Defendant

Prayer:-

Second Appeal filed under Section 100 of C.P.C., against the judgment and decree dated 09.12.2013 made in A.S. No.13 of 2012 on the file of the Subordinate Court, Sivagangai reversing the Judgment and Decree dated 30.11.2011 in O.S No.197 of 2009 on the file of the District Munsif, Sivagnagai.

DECREE:-

This Second Appeal coming on for hearing on this date, upon perusing the grounds of Appeal, the judgments and decrees of the Lower Appellate Court and the Court of First Instance and the material papers in the Suit and upon hearing the arguments of M/s.S.SRINIVASA RAGHAVAN, Advocate for the Appellant and of M/s.J.ANANTHAVALLI, Advocate for the respondent, and disposing off the Second Appeal and this Court doth order and decree as follows:-

(1) That the Defendants be and is hereby declared the undivided 1/4th share of the defendant in the entire property covered under **Exhibits A1.**

(2) That the trial court is now required to take up the final decree proceeding suo moto in terms of the ratio of the Hon'ble Supreme Court in Kattukandi Edathil Krishnan and another Vs. Kattukandi Edathil Valsan and others [AIR 2022 SC 2841] and the trial court is also required to implead any other parties who might be affected by metes and partition that may have to necessarily follow this preliminary decree, if felt necessarily.

(3) That the defendants herein is at liberty to file a memo before



the trial court regarding the same, if the lower court omits to initiate suo motu final decree proceedings.

(4) That the trial Court is required to take into account all equities affecting the property to which the parties to the final decree proceedings would be entitled to, which includes prayer of any of the parties to allot any specific portion which is in their actual physical enjoyment.

(5) That there shall be no costs in this Appeal.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/11/2022

Sub Assistant Registrar(CS)

Encl: Copy of Schedule of Property

To

- 1) The Subordinate Judge, Sivagangai
- 2) The District Munsif, Sivagangai.

Copy to:

The Section Officer,
V.R. Section,

Madurai Bench of Madras High Court, Madurai - 2 Copies

+1 CC to M/s.S.SRINIVASAN RAGHAVAN, Advocate (SR-44153 dated 09/09/2022)

+1 CC to M/s.J.ANANDHAVALLI, Advocate (SR-44332 dated 12/09/2022)

ORDER DATED : 09/09/2022

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DECREE

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SA(MD). No.328 of 2014

Nature of Decree:- Disposing off the Second Appeal preferred against the judgment and decree dated 09.12.2013 passed in A.S. No.13 of 2012 by the Subordinate Judge, Sivagangai reversing the Judgement and Decree dated 30.11.2011 passed in O.S. No.197 of 2009 on the file of the District Munsif, Sivagangai, etc., as stated within.

AMS (03.11.2022) 2P 7C