



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

S.A(MD)No.736 of 2015

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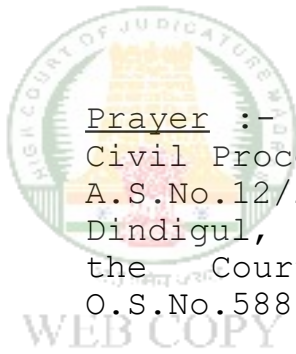
- 1.Mumtaz
- 2.M.B.Ghouse Moideen
- 3.M.B.Basheer Muhammed
- 4.M.B.Feroz
- 5.Shamshad Begum
- 6.Anarkali @ Anu

... Appellants/Appellants/
Defendants 22 - 27

-vs-

- 1.Piyari Beevi
- 2.M.Masthan
- 3.Fathima
- 4.Nargis
- 5.Ajeesbanu
- 6.Rahmathjaan
- 7.Fathimajaan
- 8.Hussain Kuthoos
- 9.Sahul Hameed
- 10.Kamaludeen
- 11.Razi Khan
- 12.Azad
- 13.Mallikajaan
- 14.S.Johny Basha
- 15.Heerajaan
- 16.Rahmatjaan
- 17.Ramija
- 18.A.Basheer Ahamed
- 19.K.Kaleel Ahamed
- 20.Gulzar Begum
- 21.M.Nawab John
- 22.S.Shanawaz Khan @ Khaja
- 23.C.Usha Kiran
- 24.Kuthubudeen
- 25.S.Shammi Kapoor
- 26.S.Sadiq Batcha
- 27.S.Sharmila
- 28.Mallika Jaan
- 29.Umarsha
- 30.Kaisar Jaan
- 31.Umar Faiz

... Respondents/Respondents/
Plaintiffs 1,2,4 & 5 and defendants
2 to 10, 12 to 17, 19, 21, 28 to 37



Prayer :- The second Appeal filed under Section 100 of the Code of Civil Procedure, to reverse and set aside the Judgment and Decree in A.S.No.12/2005, on the file of the Principal District Judge, Dindigul, dated 28.09.2006 in confirming the judgment and decree of the Court of Additional Subordinate Judge, Dindigul in O.S.No.588/1995, dated 30.12.2004.

For Appellants : Mr.S.Ramesh

For R2, 7 to 14, 16,
17, 20 to 31 : Mr.D.Nallathambi

JUDGMENT

It is seen from the records that suit in O.S.No.588 of 1995 was filed by the plaintiffs for partition. In the said suit, on 30.12.2004 the Sub-Court, Dindigul has passed the Preliminary Decree. Aggrieved over the Judgment and Decree passed in O.S.No.588 of 1995, the plaintiffs have filed an appeal in A.S.No.12 of 2005 before the Principal District Court, Dindigul. The Principal District Court, Dindigul by order dated 28.09.2006 dismissed the appeal by confirming the Judgment and Decree passed by the Sub-Court, Dindigul. Challenging the said judgment and decree, the appellants have filed the present Second Appeal.

2. When the matter was taken up for hearing, the learned counsel for the respondents submitted that pending second appeal, final decree was passed and there is no bar for executing the judgment and decree passed in the final decree application and accordingly it was executed. Therefore, he submits that nothing survives in this second appeal.

3. The challenge in the present case against the preliminary decree. Now, the final decree was passed and the same was executed. Under these circumstances, I do not see anything left for adjudication further or otherwise, hence the same is liable to be dismissed.

4. In view of the above, this Court is of the view that nothing survives further for adjudication in this matter. Hence, the second appeal is dismissed as infructuous. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Principal District Judge,
Dindigul.

2.The Additional Subordinate Judge,
Dindigul.

+1 CC to M/s.V. RAGHAVACHARI, Advocate (SR-19196[F]
dated 19/04/2022)

S.A(MD)No.736 of 2015

Dated: 18.04.2022

RK(13/05/2022) 3P 4C