



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

A.S.No.515 of 2013

and

M.P.No.1 of 2013

Anandamal Jain

...Appellant

Vs.

1.Baskaran

2.Revathy

3.Bhuvaneshwari

4.Ramachandran

...Respondents

Prayer: Appeal Suit filed under Section 96 of the Code of Civil Procedure against the judgment and decree dated 24.06.2013 made in O.S.No.12 of 2008, on the file of the learned I Additional District Judge, Tindivanam (Originally O.S.No.80 of 2007, on the file of the learned District Judge, Villupuram).

For Appellant : Mr.P.Dineshkumar

For Respondents : Mr.T.Dhanasekaran for R1 to R3

R4 No appearance



J U D G M E N T

(Judgment of the Court was delivered by **R.SUBRAMANIAN, J.**)

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The 2nd defendant in O.S.No.12 of 2008 is the appellant. He is aggrieved by the decree for partition granted in favour of the plaintiffs declaring their 3/4th share in the suit properties. The appellant was impleaded in the suit in his capacity as agreement holder from the 1st defendant. It is seen that the appellant had also sought for specific performance of the agreement of sale dated 10.11.2006 as against the plaintiffs as well as the 1st defendant in O.S.No.12 of 2008. The said suit came to be decreed and it was held that the agreement is not binding on the plaintiffs in the suit for partition viz., the children of the 1st defendant Ramachandran.

2. Mr.P.Dineshkumar, learned counsel appearing for the appellant would submit that though the suit was decreed on 30th September 2011 granting him three months time to deposit the balance of sale consideration, he has not done so. Therefore, the decree for specific performance has become inexecutable.



3. In view of the same, this appeal which is filed by the appellant as an agreement holder against the decree for partition does not survive. The appeal is therefore **dismissed as infructuous**. No costs. Consequently, the connected miscellaneous petition is closed.

(R.S.M.,J.) (N.S.,J.)
18.12.2023

dsa
Index :No
Internet :Yes
Neutral Citation :No
Speaking order

To

The I Additional District Judge,
Tindivanam.



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