



C.M.P.No.16518 of 2022
in S.A.No.177 of 2005

N.SESHASAYEE, J.

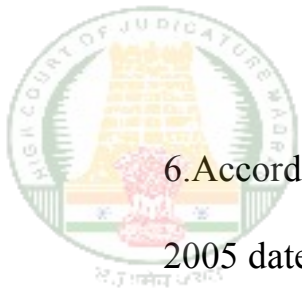
This petition is moved by the learned counsel for the appellant for modifying the decree to make it in tune with the judgment. He also added that the consequential relief of injunction for the portion for which decree has been granted is also omitted by oversight.

2.Heard both sides.

3.The decree comprises of four (4) clauses and the clause No.1 and 2 are consistent with the operating portion of the judgment. So far as clause No.3 is concerned, it just hangs and does not convey any meaning and that has to be dropped.

4.So far as consequential injunction sought with regard to 1.44 acres for which the decree is granted, there is an omission even in the judgment to that effect. That is now given.

5.The learned counsel for the respondents also indicated that the Court may also indicate in the concluding portion of the judgment the other aspects of the judgment of the first Appellate Court had to be recorded as confirmed.



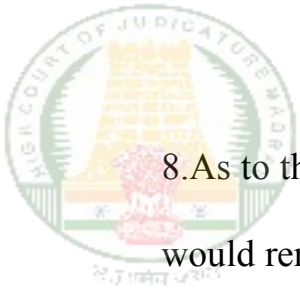
6. Accordingly, paragraph No.15 of the order of this Court in S.A.No.177 of 2005 dated 10.03.2020 will read as below;

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“15. In conclusion, this Second Appeal is partly allowed and the plaintiffs' title to half share in the well and 1.44 acres based on Ex.A2 and Ex.A3 are upheld and the judgment and decree of the first Appellate Court shall stand modified to this extent, and as to the rest the decree of the first Appellate Court will stand confirmed. There shall be a consequential relief of prohibitory injunction, restraining the defendants from disturbing the peaceful possession and enjoyment of 1.44 acres and also the enjoyment of half a share in the well as has been granted by this Court. No costs. Consequently, the connected miscellaneous petition is closed.”

7. Turning to the decree portion, clause 3 should be replaced with the following;

“3.The respondents / defendants are restrained by a decree of prohibitory injunction not to disturb the peaceful possession and enjoyment of the plaintiffs as regards 1.44 acres covered under Ex.A2 and Ex.A3 and also their enjoyment of half the share in the well.”



8.As to the rest, the decree of first Appellate Court is stand confirmed. Clause 4 would remain as it is.

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9.The Registry is required to carry out necessary amendment in the judgment and decree of this Court passed in S.A.No.177 of 2005 dated 10.03.2020 and provide fresh certified copies to both the sides at free of charges.

08.06.2023

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