



S.A.No.394 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

S.A.No.394 of 2017
and
CMP.No.19223 of 2017

1.Rukmani
2.Gomathi
3.Geetha

... Appellants

Vs.

1.Subramanian
2.Thangamani
3.Paramanantham @ Manokaran
4.Dhavamani
5.Nagalingam
6.Thangadurai

... Respondents

Prayer: Second Appeal filed under Section 100 of the Code of Civil Procedure, against the judgment and decree dated 25.01.2017 passed in A.S.No.17 of 2015 on the file of III Additional District and Sessions Judge, Gobichettipalayam only in respect of item 2 alone modifying the judgment and decree dated 09.04.2014 passed in OS.No.87 of 2012 on the file of the Subordinate Judge, Sathyamangalam.



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For Appellants : Mr.A.Veerasamy
For Respondents : Mr.J.Titus Erock
for Mr.I.C.Vasudevan for R3 & R5

JUDGMENT

The plaintiffs in the suit for partition are the appellants. The suit filed by the appellants was dismissed by the trial Court. The First Appeal filed by the appellants was allowed in part by granting decree for partition in respect of item No.1 of the suit property. As far as item No.2 of the suit property is concerned, the same was dismissed on the ground that the appellants/plaintiffs have not given proper description of property. Aggrieved by the dismissal of the First Appeal in respect of second item of the suit property, the appellants have come up with this Second Appeal.

2. When the matter is taken up for hearing the learned counsel for the appellants submitted that the appellants may be given liberty to file a fresh suit in respect of item No.2 of the suit property by giving correct description.

3. The learned counsel for the respondents have no objection for giving such liberty to the appellants.



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4. It is seen from the description of property found in the schedule, the first item of suit property is an extent of 10 cents of land with superstructure thereon. The second item of suit property is on different survey number and the same appears to be an agricultural land.

5. In such circumstances, this Court is inclined to accede to the request made by the learned counsel for the appellants. Accordingly, the Second Appeal is dismissed with liberty to the appellants to file a fresh suit in respect of item No.2 of the present suit property by giving correct description of the same.

6. Accordingly, this Second Appeal is dismissed with liberty. No costs. Consequently, connected Miscellaneous Petition is closed.

20.11.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation Case : Yes/No
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S.SOUNTHAR, J.

dna

To

- 1.The III Additional District and Sessions Court, Gobichettipalayam.
- 2.The Subordinate Judge, Sathyamangalam.

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