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S.A.(MD).No.215 of 2020

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.11.2023**

CORAM:

THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

S.A.(MD).No.215 of 2020
and
C.M.P(MD)No.2872 of 2020

Velukonar

... Appellant

/Vs./

1. Karuthadurai

2. Manikandan

...Respondents

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code to set aside the decree and Judgment dated 22.10.2018 in A.S.No.40 of 2016 on the file of the Sub Court, Sankarankovil confirming the Judgment and decree dated 01.04.2016 passed in O.S.No. 301 of 2014 on the file of the Additional District Munsif Court, Sankarankovil.

For Appellant : Mr.K.Prabhu

For Respondents : Mr.G.Mohankumar

JUDGMENT

This Second appeal has been filed to set aside the Decree and Judgment, dated 22.10.2018 in A.S.No.40 of 2016 on the file of the



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Sub Court, Sankarankovil confirming the Judgment and Decree, dated 01.04.2016 passed in O.S.No.301 of 2014 on the file of the Additional District Munsif Court, Sankarankovil.

2. Heard Mr.K.Prabhu, the Learned Counsel appearing for the Appellant, Mr.G.Mohankumar, the Learned counsel appearing for the Respondents and perused the material documents available on record.

3. The plaintiff is Appellant and the defendants are respondents herein. The plaintiff has filed a suit in O.S.No.301 of 2014 on the file of the Additional District Munsif Court, Sankarankovil. The Learned District Munsif has dismissed the said suit on 01.04.2016. Against the said dismissal, the plaintiff has preferred an appeal in A.S.No.40 of 2016 on the file of the Sub Court, Sankarankovil and the said Appellate Court has also dismissed the Appeal. Against the said concurrent findings, the Appellant/Plaintiff is before this Court.

4. For the sake of convenience, the contesting parties shall be referred to as Plaintiff and Defendants.



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5. The suit in O.S.No.301 of 2014 was filed for declaration and permanent injunction and also for mandatory injunction and to cancel the sale deed which was executed in favour of the defendants.

6. According to the plaintiff, regarding the suit property the plaintiff had already executed a Power of Attorney.

7. The contention of the plaintiff is that, while executing the Power of Attorney he has paid consideration for sale. Therefore, he is claiming rights over the property. Subsequently, the suit property was sold in favour of the defendants i.e., sons of the plaintiff. Hence, the plaintiff is claiming to cancel the sale deed and declare that the suit property belongs to him. Both the Courts below have held that the plaintiff is entitled to stay in the suit property till his life time.

8. Today, when the matter is taken up for hearing, it is represented that during the pendency of this Second Appeal, the plaintiff died. Therefore, nothing survives for adjudication in this matter. The sale deed executed in favour of the defendants is legally valid.



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9. Accordingly, this Second Appeal is dismissed by confirming the concurrent finding passed by the Courts below. No Costs. Consequently, connected miscellaneous petition is closed.

20.11.2023

Index : Yes / No
NCC : Yes / No
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TO:

1. The Sub Court, Sankarankovil.
2. The Additional District Munsif Court,
Sankarankovil.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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Judgment made in
S.A.(MD)No.215 of 2020

20.11.2023