



S.A(MD).No.532 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 16.03.2023

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

S.A(MD).No.532 of 2022

and

C.M.P(MD).Nos.7216 and 7217 of 2022

Kalaiselvi

... Appellant/Appellant/Plaintiff

Vs.

Petchiammal (died)

Seeni (died)

1.Bhahaathal

2.Karpuram

3.Velammal

4.Sakkammal

5.Backiyam

6.Narayanan

7.Ramar

8.Sakthivel

9.Mahalingam

... Respondents/Respondents/LRs of the defendants

Prayer: Appeal is filed under Section 100 of the Code of Civil Procedure, to call for the records relating to the judgment and decree dated 11.07.2022 passed in A.S.No.37 of 2018 by the Subordinate Judge, Tirumangalam confirming the judgment and decree dated 12.03.2018 passed in O.S.No.204 of 2010 by the District Munsif Court, Tirumangalam and set aside the same.



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For Appellant : Mr.D.Malaichamy

JUDGMENT

Since the appellant has filed a suit only for bare injunction, the Courts below by their concurrent findings have held that the suit is not maintainable as the appellant ought to have filed a suit for declaration. Admittedly, there is a cloud over the title of the suit schedule property, as seen from the defence raised by the defendants in their written statement. Therefore, necessarily the appellant/plaintiff ought to have filed a suit for declaration.

2. The learned counsel for the appellant would now submit that liberty may be granted to the appellant/plaintiff to file a suit for declaration. He has also made an endorsement in the Court bundle seeking such liberty.

3. The said endorsement is recorded by this Court. No prejudice would be caused to either of the parties, if such a relief is granted. In view of the fact that the suit has been dismissed on the ground that the plaintiff has not filed a suit for declaration, this second appeal is disposed



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of by granting liberty as prayed for by the appellant. No costs.

Consequently, connected Miscellaneous Petitions are closed.

16.03.2023

NCC : Yes/No

Index : Yes / No

Rmk

To

- 1.The District Munsif, Thirumangalam.
- 2.The Subordinate Judge, Thirumangalam.



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ABDUL QUDDHOSE.J.,

Rmk

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