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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.10.2023**

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

S.A(MD)NO.216 OF 2021
and
C.M.P(MD)No.3090 of 2021

S.H.Naina Moahmed :Appellant/Appellant/Second
Respondent/Second defendant

.VS.

S.Sheik Mohammed : Respondent/Respondent/
Petitioner/Plaintiff

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code against the judgement and decree passed in A.S.No.118 of 2018,dated 19.12.2019, on the file of the Principal District Court,Dindigul, Dindigul District confirming the judgment and decree made in I.A.No.353 of 2013 in O.S.No.89 of 1991, dated 5.2.2018, on the file of the Principal Sub Court, Dindigul, Dindigul District.

For Appellant :Mr.G.Gomathi Shankar

For Respondent :Mr.N.S.Karthikeyan

JUDGMENT

This Second Appeal is filed Challenging the judgement and



decree passed in A.S.No.118 of 2018, dated 19.12.2019, on the file of the Principal District Court, Dindigul, Dindigul District confirming the judgment and decree made in I.A.No.353 of 2013 in O.S.No.89 of 1991, dated 5.2.2018, on the file of the Principal Sub-Court, Dindigul, Dindigul District.

2.The respondent, as plaintiff, filed a suit in O.S.No.89 of 1991 seeking partition of 163/216 share and for other reliefs. After contest, the suit was decreed by the trial Court. Against the said judgment and decree, an appeal in A.S.No.52 of 1998 was filed on the file of Principal Sub-Court, Dindigul and that ended in dismissal. Against the said dismissal, a Second Appeal was filed by the respondent in S.A.No.140 of 2004 and that was also dismissed. The matter was taken before the Honourable Supreme Court in Special Leave Petition in C.C.No(s)21197 of 2015 and that also ended in failure. Subsequently, the plaintiff filed I.A.NO.353 of 2013 for passing a final decree. The learned Principal Subordinate Judge passed a final decree on 5.2.2018 allotting shares. Against the said order, the appellant filed A.S.No.118 of 2018 and that was also dismissed. Thus this appeal is filed.

3.During the hearing in the appeal, it is submitted by the



learned counsel for the parties that as per the final decree, shares have been allotted. The respondent filed E.P.No.316 of 2019 for delivery of the share allotted to him. After hot contest, delivery of the respondent's share was given to him and the respondent had taken possession of the share allotted to him.

4. In the circumstances stated above, this Court finds that the matter had been taken up to the Honourable Supreme Court against the judgment in O.S.No.89 of 1991. Now after a long drawn legal battle, the respondent was delivered with his share of the property. Thus, this Court is of the view that there is nothing to be adjudicated in this Second Appeal, especially, there is no substantial question of law for consideration in this Second Appeal.

5. In this view of the matter, the Second Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

13.10.2023

Index:Yes/No
Internet:Yes/No
NCC:Yes/No
vsn



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- To
- 1.The Principal District Judge,
Dindigul.
 - 2.The Principal Sub-Court,
Dindigul.
 - 3.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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G.CHANDRASEKHARAN,J.

vsn

**JUDGMENT MADE IN
S.A(MD)NO.216 OF 2021
and
C.M.P(MD)No.3090 of 2021**

13.10.2023