



A.S.No.344 of 2015

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2024

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

A.S.No.344 of 2015

Santhi, F/aged 57 years (Died)
W/o.Selvam
No.37/1, Chinnakannu Chetty Street
Karaikal District and Munsif
Karaikal

2.L.Selvam

3.Dhanalakshmi
W/o.Panditurai
D/o.L.Selvam
A2 & A3 are residing at
3/1, First Cross, M.G.J.Nagar
P.K.Salai,
Karaikal 609 602

(A1 died. A2, A3 & R3 brought on record as legal representatives of deceased 1st Appellant viz., Santhi, vide order dated 09.12.2022 in CMP.Nos.17036 & 17038 of 2021 in A.S.No.344 of 2015)

... Appellants

Vs.

1.Mohamed Shafi Maricar, M/A, 52 years

1/8



A.S.No.344 of 2015

S/o.M.G.Jafer Maricar
No.1, P.K.Salai
M.G.J.Nagar
Karaikal

2.Sumathi, F/A, 47 years
W/o.Uthayakumar
12, A.A.Nagar
Karaikal

... Respondents

PRAYER: This Appeal is filed under Section 96 of Civil Proceedure Code, to set aside the decree and judgment passed in O.S.No.55 of 2007 dated 05.01.2015 on the file of the District Judge, Karaikal in so far as dismissing the suit as against the second Defendant with regard to the suit schedule property with appropriate directions and reliefs against the respondents/defendants for execution of the decree passed in O.S.No.55 of 2007 dated 05.01.2015 with respect to the suit property.

For Appellant : Mr.R.Natarajan

For Respondents : Mr.N.Gnanalingam (for R1)

Mr.Sai Krishnan (for R2)

Mr.K.Pragadesh Kumar (for R3)



A.S.No.344 of 2015

WEB COPY

JUDGMENT

This Appeal Suit has been filed to set aside the decree and judgment passed in O.S.No.55 of 2007 dated 05.01.2015 on the file of the District Judge, Karaikal insofar as dismissing the suit as against the second Defendant with regard to the suit schedule property with appropriate directions and reliefs against the respondents/defendants for execution of the decree passed in O.S.No.55 of 2007 dated 05.01.2015 with respect to the suit property.

2.The Plaintiff is the first Appellant herein. She filed a suit in O.S.No.55 of 2007 seeking direction to the first Defendant to complete and execute the sale deed in respect of the suit property in favour of the Plaintiff, after receiving the balance sale consideration of Rs.4,40,000/-.

3.The 1st and 2nd Defendants filed written statement in the Suit proceedings. The 2nd Defendant is the contesting Defendant, in the written statement it was alleged that she purchased a house plot bearing No.6 from the first Defendant for a valuable consideration of Rs.1,86,000/- under a



A.S.No.344 of 2015

WEB COPY

registered sale deed dated 24.10.2007. Hence she stated that with regard to Plot No.8 she had nothing to do with the Suit and also she stated that the Advocate Commissioner, who had inspected the suit property has filed a report stating that the property purchased by the 2nd Defendant Sumathi and the suit property are not one and the same and therefore, she is not a necessary party to the suit proceedings.

4.During the trial, on the side of the Plaintiff PW1 & PW2 were examined and Ex.A1 to Ex.A6 were marked and on the side of the Defendants DW1 to DW5 were examined and Ex.B1 to Ex.B18 were marked. CW1 was examined as court witness and Ex.C1 & C2 were marked as Court documents.

5.Advocate Commissioner's report was marked as Ex.C1 and sketch was marked as Ex.C2. The first Defendant was entered into witness box and deposed as DW1.

6.After trial, the learned District Judge, Karaikal has held that the



A.S.No.344 of 2015

WEB COPY

Plaintiff has made out the case and directed the 1st Defendant to execute the sale deed in favour of the Plaintiff, after receiving the balance sale consideration of Rs.4,40,000/- and as against the 2nd Defendant the Suit was dismissed. In the trial Court's judgment in paragraph 19 it was stated that For correct identification Ex.B7 shall be annexed to the Decree and it shall form part of the Decree. However, in the decree copy issued by the District Court it appears that the said clause was not fully incorporated and hence she filed an appeal.

7.Heard the learned counsel appearing on behalf of either sides.

8.After hearing the learned counsel for the Appellant and the learned counsel for the second Defendant, I find that as against the second Defendant the Suit was already dismissed. If there is a direction to the learned District Judge, Karaikal to incorporate the term “Ex.B7 shall form part of the Decree”, it will meet the ends of justice. Accordingly, there is a direction on the same lines.



A.S.No.344 of 2015

WEB COPY

9.In fine, this Appeal is partly allowed to the limited extent indicated above. No costs.

15.02.2024

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

sai



A.S.No.344 of 2015

WEB COPY

To
The District Judge,
Karaikal



WEB COPY



A.S.No.344 of 2015

RMT.TEEKAA RAMAN, J.

sai

A.S.No.344 of 2015

15.02.2024