



S.A.No.922 of 2004

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

S.A.No.922 of 2004

1. Kothandapani (Died)
- 2.K.Nirmala Devi
- 3.K.Velavaraj
- 4.K.Velraj
- 5.Tharanidevi

.. Appellant

(Appellants 2 to 5 brought on record as LR's of the deceased sole appellant vide order of Court dated 08.04.2019 made in CMP.No.21601, 21602 and 21606 of 2018 in S.A.No.922 of 2004(TRNJ).

Vs.

Saroja Ammal

.. Respondent

PRAYER : Second Appeal is filed under Section 100 of the Code of Civil Procedure, prayed to set aside the Judgement and Decree dated 08.10.2003 passed in A.S.No.68 of 2001, on the file of the Court of Subordinate Judge, Thiruvarur confirming the judgment and decree dated 28.11.2000 in O.S.No.93 of 1998 on the file of the Court of District Munsif at Nannilam.



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For Appellants : M/s. R.T. Shymala

For Respondent : Mr. Arun Babu

J U D G M E N T

This appeal has been filed to set aside the Judgement and Decree dated 08.10.2003 passed in A.S.No.68 of 2001, on the file of the Court of Subordinate Judge, Thiruvarur confirming the judgment and decree dated 28.11.2000 in O.S.No.93 of 1998 on the file of the Court of District Munsif at Nannilam.

2. Heard, M/s. R.T. Shymalan, learned counsel for the appellants, Mr. Arun Babu, learned Counsel appearing for the respondent.

3. Today, when the matter is taken up for hearing, both the learned counsel for the appellants and the respondent appeared and presented their arguments.



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4. During the pendency of the Second Appeal, the functional Commissioner was directed to measure the property with the help of a Surveyor and submit the report by 20.03.2020. In the report, a portion marked in rose colour, with an extent of 5 cents in S.No.5/11, was suggested as part of the plaintiff's claim, while the remaining 10 cents in S.No.5/11, shown in blue colour in the plan, were identified as belonging to the appellants.

5. The said report, along with the plan, was reviewed by both counsels, who accepted the suggestions made by the learned Advocate Commissioner. Accordingly, the original claim of the plaintiff, which was 5 cents in S.No.5/11, has been substantiated by the Commissioner's report. The Surveyor measured S.No.5/11, and the rose-coloured portion was confirmed as the 5 cents claimed by the plaintiff.

6. Therefore, the rose-coloured portion in S.No.5/11 is allotted to the plaintiff, while the remaining 10 cents in the blue-coloured portion belongs to the defendant. The Commissioner's report, along with the Surveyor's plan



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dated 20.03.2020, shall form part and parcel of this order.

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T.V.THAMILSELVI, J.

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7. In view of the above, the appeal is disposed of. The 5 cents shown in rose colour are ordered to be delivered to the respondent / plaintiff. The Commissioner's report shall form part of this order. No costs.

08.08.2024

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Index : Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No

To

- 1.The Subordinate Judge, Thiruvarur.
2. The District Munsif, Nannilam.
- 3.The Section Officer, VR Section,
High Court of Madras.

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