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S.A.No.573 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2024

CORAM:

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

S.A.No.573 of 2013

K.Ganthimathi

... Appellant

VS.

A.Balaraman (Died)

2.Kamala

3.Danapal

4.Ponnurangan

5.K.Muniammal

6.V.Mangalam

... Respondents

(R2 to R6 brought on record as legal heirs of the deceased sole respondent vide order of this Court dated 25.08.2022 made in CMP.No.10421 of 2022)

PRAYER: Second Appeal filed under Section 100 of CPC to set aside the Judgment and Decree dated 30.08.2011 passed by the learned Sub Judge, at Tambaram in A.S.No.39 of 2010 confirming the Judgment and Decree passed



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in O.S.No.717 of 2006 on the file of the District Munsif Court, Alandur.

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For Appellant : Mr.N.Sivaprakash

For respondents

2 to 6 : Mr.M.Siddarthan

Respondent 1 - Died

JUDGMENT

The present second appeal arises against the Judgment and decree passed in A.S.No.39 of 2010 on the file of the learned Subordinate Judge, Tambaram dated 30.08.2011 in confirming the judgment and decree of the learned Principal District Munsif at Alandhur in O.S.No.717 of 2006 dated 16.09.2009.

2. For the sake of convenience, the parties will be referred to as their ranks in the suit.

3. The present suit had been filed for permanent injunction restraining the defendant/Balaraman from in any way interfering with the plaintiff's right of putting up a gate in the eastern boundary of the property



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belonging to the plaintiff. The suit had been dismissed and the first appeal confirmed the decree. Aggrieved by the same, the present second appeal came to be presented.

4. This court did not admit the appeal, but had issued notice regarding admission on 01.07.2013. On completion of service, the matter was listed before me for passing orders on admission today.

5. When the matter was taken up, Mr.N.Sivaprakash, learned counsel submits that pending the first appeal, Balaraman had sold the property along with his legal heirs in favour of his brother Ranganathan. Subsequent to the purchase made by Ranganathan, he had permitted the plaintiff/Ganthimathi to put up a gate in the eastern boundary wall of the plaintiff's property. He has produced the sale deed dated 12.12.2011 by way of a memo. This said memo has been counter signed by Adhava Murugan Jawahar, the son of Karuvelamuthu Nadar and Gandhimathi.

6. Mr.Sivaprakash submits that Gandhimathi is unable to be present in the Court as she was very much advanced in age and unable to



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move out.

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7. Mr.Siddarthan, learned counsel confirms the aforesaid facts.

8. In the light of the memo that has been filed by Mr.N.Sivaprakash and in the light of the above submissions made by either side and by Adhava Murugan Jawahar, nothing further remains to be adjudicated in the appeal.

9. Accordingly, this second appeal is closed. No costs.

24.01.2024

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Index : Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

To



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1.The Sub Judge, at Tambaram

2.The District Munsif Court, Alandur.



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V.LAKSHMINARAYANAN, J.

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