



WEB COPY



S.A.No.767 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.07.2024

CORAM:

The Hon'ble MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

S.A.No.767 of 2013 and

M.P.No.1 of 2013

Rajeswari

... Appellant

Versus

Dhanalakshmi (Died)

2. Sulochana

3. Ananthan

... Respondents

Prayer:- Second Appeal is filed under Section 100 of Civil Procedure Code against the judgment and decree dated 04.01.2013 made in A.S.No.9 of 2012 on the file of II Additional District Court, Tindivanam partly reversing the judgment and decree dated 17.06.2011 and made in O.S.No.133 of 2008 on the file of Principal Subordinate Court, Tindivanam.

For Appellant : Mr.K.Doraisami
Senior Counsel

For Respondents : A.K. Kumarasamy (Senior Counsel)
for Mr.S.Kaithaimalai Kumaran

JUDGMENT



S.A.No.767 of 2013

WEB COPY

This Second Appeal had been filed against the judgment and decree dated 04.01.2013 made in A.S.No.9 of 2012 on the file of II Additional District Court, Tindivanam partly reversing the judgment and decree dated 17.06.2011 and made in O.S.No.133 of 2008 on the file of Principal Subordinate Court, Tindivanam.

2. When the Appeal is taken up for hearing, the learned Senior Counsel for the Appellant submitted that the first Appellate Court had not considered the Appeal as per the provisions of Civil Procedure Code under Order 41, Rule 31. Points for determination was not framed by the first Appellate Court and had erred in disposing the Appeal. Therefore, the learned Senior Counsel seeks to remit the matter back to the first Appellate Court with specified time to dispose of the Appeal.

3. The learned Counsel for the Appellant relied on the reported decisions in the case of ***Gannmani Anasuya and Others -vs- Parvatini Amarendra Chowdhary and Others*** reported in (2007) 10 SCC 296 and in the case of ***K.Karuppuraj -vs- M.Ganesan*** reported in (2021) 10 SCC 777.

4. On the settled propositions of law laid down by the Hon'ble



S.A.No.767 of 2013

Supreme Court, the learned Counsel for the Respondent cannot have any objections. The matter is remanded back to the first Appellate Court. Based on the submission of the learned Senior Counsel for the Appellant and the reported decisions, the papers are remanded back to the learned II Additional District Judge, Tindivanam to dispose of the Appeal following the reported decisions, raising points for determination after perusing the grounds of Appeal preferred by the Appellant before the first Appellate Court.

5. In the result, this Second Appeal is disposed of with a direction to learned II Additional District Judge, Tindivanam to dispose of the case on merits within a reasonable period of three months after notice to both the parties. Consequently, connected miscellaneous petition is closed. No costs.

22.07.2024

shl
Index : Yes/No
Speaking/Non-speaking order

SATHI KUMAR SUKUMARA KURUP, J.,



WEB COPY



S.A.No.767 of 2013

shl

S.A.No.767 of 2013 and
M.P.No.1 of 2013

22.07.2024