



S.A.(MD)No.310 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2024

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

S.A.(MD)No.310 of 2024 &
C.M.P.(MD)No.6998 of 2024

John Christopher

...Appellant

vs.

1.Dr.J.Stalin Joseph

2.T.Sundharabai

...Respondents

Prayer: Second Appeal filed under Section 100 of the Code of Civil Procedure praying to set aside the Judgement and Decree in A.S.No.14 of 2018 dated 30.07.2019 on the file of the Additional District Judge, Padmanabhapuram reversing the Judgement and Decree in O.S.No.200 of 2010 dated 21.02.2014 on the file of the Sub Court, Padmanabhapuram, Kanniyakumari District.

For Appellant : Mr.V.Rajiv Rufus

For Respondents : Mr.Pon.Karthikeyan for R1

Mr.M.Suriya Bagavandass
for Mr.Rajagobalan for R2



S.A.(MD)No.310 of 2024

WEB COPY

J U D G E M E N T

Today, when the matter is taken up for hearing, the learned counsel appearing for the appellant would submit that the issue is with regard to the consent decree recorded by the Additional District Judge, Padmanathapuram to the effect that the appellant ought to pay a sum of Rs.20,00,000/- to the first respondent. It is contended by the learned counsel that the appellant came to know about such a Judgement only after the receipt of the Judgement copy. It is his contention that fraud has been played in obtaining such a Judgement and Decree before the Additional District Court, Padmanathapuram. Therefore, the present appeal.

2. However, the learned counsel appearing for the first respondent would submit that no fraud has been played in obtaining the consent decree and in the event, if any fraud has been played, the appellant should approach the concerned Court where the consent decree was obtained and not this Court.



S.A.(MD)No.310 of 2024

WEB COPY

3. This Court is also of the considered view that it would be appropriate to challenge the Judgment and Decree before the concerned Court by filing appropriate petition, for which, consent has been arrived by both the counsel. The appellant is also present before this Court in person.

4. After elaborating the appellant about what transpired before this Court, the learned counsel appearing for the appellant seeks liberty to withdraw this appeal and approach the Additional District Court, Padmanathapuram by filing an appropriate petition to challenge the Judgment and Decree. He further submits that a Memo would also be filed to that effect by today itself.

5. In the event if any such application is filed, the learned Additional District Judge, Padmanathapuram shall decide the issue without being influenced by any of the observations made by this Court.



S.A.(MD)No.310 of 2024

WEB COPY

6. Recording the submissions made by the learned counsel appearing for the appellant, this Second Appeal is dismissed as withdrawn. Liberty is granted to the appellant to file a petition before the concerned Court within a period of two weeks from the date of receipt of a copy of this order. It is left open to the parties to raise all their contentions before the concerned Court in the event if any petition is filed by the appellant before the Court which passed the consent decree. Memo to be filed by the appellant today shall form part and parcel of the Judgement. No costs. Consequently, connected Miscellaneous Petition is closed.

07.11.2024

NCC:Yes/No

Index:Yes/No

Speaking/Non-speaking order

mbi

To

1.The Additional District Judge,
Padmanabhapuram

2.The Sub Court,
Padmanabhapuram, Kanniyakumari District



WEB COPY



S.A.(MD)No.310 of 2024

KRISHNAN RAMASAMY, J.

mbi

S.A.(MD)No.310 of 2024

07.11.2024