



WEB COPY

SA No. 243 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-04-2025

CORAM

THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI

SA No. 243 of 2025

AND

CMP NO. 7284 OF 2025

1. Elizabeth
2. Mary
3. Akkim Mary
4. Weslin Mary
5. Ebil Singh

Appellants

Vs

1. Hary Joseph @ Trumen
2. Veronica
3. Suzabella
4. Messac

Respondents



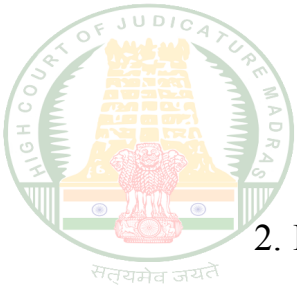
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PRAYER:- Second Appeal filed under Sec.100 of Civil Procedure Code, praying to set side the Judgment and Decree dated 20.04.2023 in AS No.39/2022 on the file of IV Addl. Judge, City Civil Court, Chennai confirming the Judgment and decree passed in OS No. 6138 of 2016 dated 05.04.2022 on the file of XV Asst. Judge, City Civil Court at Chennai.

For Appellants:- Mr. A.M.Krishnamoorthy

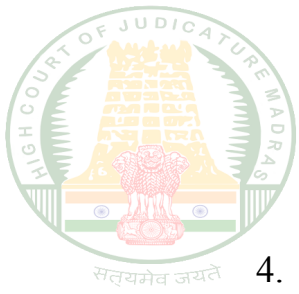
JUDGEMENT

The appellants, who are the plaintiffs filed the suit for the relief of declaration and permanent injunction before the trial court in O.S. No. 6138 of 2016 on the file of XV Asst. Judge, City Civil Court, Chennai and the same was dismissed by the trial court. Against which, they preferred an appeal in A.S.No.39 of 2022 on the file of IV Addl. City Civil Court, Chennai and the same was also dismissed confirming the findings of the trial court. Now, challenging the concurrent findings of courts below, the plaintiffs preferred this Second Appeal.



2. For the sake of convenience, the parties are denoted as per the ranking in the suit.

3. Before the trial court, the plaintiffs filed a suit for the relief of declaration and permanent injunction in respect of suit property as described in the plaint schedule with buildings and superstructure now existing in Door Old No.92, New No. 37 with four boundaries. Notice served on the defendants, but they remained exparte. The 4th plaintiff was examined as P.W.1 and on her side, the documents Ex.A1 to Ex.A24 were marked. On perusal of available records, the trial judge held that the plaintiffs' grandmother said to have purchased the suit property in the year 1971, but they have not produced the original document to that effect. The other legal heirs of deceased grandmother Lourdhumaryammal have not been added as parties. Therefore, the trial court dismissed the suit for non-production of sale deed of the year 1971 and the same was confirmed by the first appellate court in A.S.No. 39 of 2022. Challenging the said concurrent findings of the courts below, the plaintiffs have preferred this Second Appeal.



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4. The learned counsel for appellants would submit that originally, the entire family affairs was looked out by Louie Joseph, who is 1st plaintiff's husband, however, suddenly due to heart-attack, he is not able to produce the document, however, the plaintiffs are ready to produce the certified copy of sale deed to prove their right and title over the suit property. Hence, he wanted to remand back the matter to the trial court.

5. On seeing the facts, it reveals that according to plaintiffs, the suit property was mortgaged and the entire amount was paid by them, but the defendants, other legal heirs of grandmother caused interference. Hence, the suit was filed and they are ready to produce the certified copy of parent deed before the trial court. If the reasonable opportunity is not given to them, their valuable right to defend their case will be defeated. Therefore, this Court is inclined to remand back the matter to the trial court. The trial judge is directed to dispose the case within a period of four months from the date of receipt of copy of this judgment by giving notice to both parties. Accordingly, this Second Appeal is



allowed and the findings rendered by the first appellate court in A.S.No. 39 of

2022 is set aside. Liberty is granted to the plaintiffs to produce the additional

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documents as per manner known to law. Both parties entitled to adduce

evidence. Considering the same, trial judge directed to dispose the case on

merit. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

30-04-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. IV Addl. Judge, City Civil Court, Chennai.

2. XV Asst. Judge, City Civil Court, Chennai.

3. Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

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