



S.A.No.974 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2026

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A.No.974 of 2021
and C.M.P.No.18392 of 2021

S.Murugan

... Appellant

vs.

1.Ramachandran

2.Usha Ammal

... Respondents

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the judgment and decree dated 03.12.2019 made in A.S.No.5 of 2018 on the file of the learned Principal District Judge, Tiruvannamalai confirming the Final Decree dated 31.08.2017 made in I.A.No.574 of 2011 in O.S.No.143 of 2010 on the file of the learned Additional Subordinate Judge, Tiruvannamalai.

For Appellant : Mr.V.Anandhamurthy

J U D G M E N T

The 16th defendant in a partition suit is the appellant.

2. The respondents herein filed a suit for partition seeking their 1/4th share in the suit property. The Trial Court granted Preliminary Decree for partition of 1/4th share of the respondents on 20.06.2011. Thereafter, the respondents preferred final decree proceedings in I.A.No.574 of 2011 in



S.A.No.974 of 2021

O.S.No.143 of 2010. In the final decree proceedings, an Advocate Commissioner was appointed to suggest the mode of division. He submitted a report after conducting local inspection. The appellant, who was arrayed as 16th defendant in the suit, filed an objection to Advocate Commissioner's report. The Trial Court overruled the objection and passed final decree as per the mode of division suggested by the Advocate Commissioner. Aggrieved by the same, the 16th defendant preferred a first appeal in A.S.No.5 of 2018 on the file of the Principal District Court, Tiruvannamalai. The First Appellate Court dismissed the appeal and confirmed the final decree passed by the Trial Court. Aggrieved by the same, the present second appeal has been preferred by the appellant.

3. The learned counsel appearing for the appellant/16th defendant would submit that he purchased a portion of the suit property from one of the sharer namely the 1st defendant and the Advocate Commissioner at the time of local inspection failed to locate the suit property with reference to four boundaries mentioned in the Preliminary Decree. He also submitted that the four boundaries of the property have not been properly identified by the Advocate Commissioner while locating the suit property. He further submitted that the portion of the suit property was acquired by the Highways



S.A.No.974 of 2021

Department for formation of the bye-pass road and the same has not been taken into consideration by the Advocate Commissioner. He also submitted that the suit property was divided into various plots and sold to third parties and the same has not been considered by the Advocate Commissioner in proper perspective.

4. A perusal of the judgment and decree passed by the Courts below in final decree proceedings would indicate that the Advocate Commissioner inspected the property after issuing prior notice and he identified the suit property in the presence of Revenue Officials. In the Advocate Commissioner's report referred by the Trial Court in the final decree proceedings, he clearly mentioned that the Taluk Surveyor based on the revenue documents and revenue plan identified 4.26 acres in Survey No.3/1 and subsequently, based on four boundaries mentioned in the Preliminary Decree, the subject matter of the suit namely 1 acre out of 4.26 acres in Survey No.3/1 has been properly identified and the same was accepted by all the parties to the suit and their respective counsel. Therefore, the submission made by the learned counsel appearing for the appellant regarding the identification of the suit property is not acceptable to this Court.



S.A.No.974 of 2021

5. The Advocate Commissioner has also taken into consideration the suit property has been developed as a residential layout and the properties purchased by the third parties from the sharers have been excluded from the portion allotted to the plaintiffs in the final decree proceedings. Therefore, the Advocate Commissioner has also taken into consideration the equities while suggesting the mode of division and the same can be gathered from Paragraph No.4 of the Advocate Commissioner's report.

6. The learned counsel appearing for the appellant would submit that the portion of the property purchased by him was acquired for laying bye-pass road and the said fact has not been considered by the Advocate Commissioner.

7. The First Appellate Court rightly observed that if portion of the property purchased by the appellant has been acquired in a subsequent land acquisition proceedings, the appellant has been entitled to benefit of the land acquisition compensation and in such circumstances, the appellant, who purchased the property prior to the said acquisition cannot have any right. Therefore, the submission made by the learned counsel appearing for the appellant is not acceptable to this Court and all objections raised by the



S.A.No.974 of 2021

appellant have been considered by the Courts below in accordance with law and overruled the same, I do not find any serious error in the approach of the Courts below. Since no substantial question of law is arising for consideration in this second appeal, the same is dismissed.

In Nutshell:-

- (i) The Second Appeal is dismissed.
- (ii) Consequently, the connected civil miscellaneous petition is closed.
- (iii) In the facts and circumstances of the case, there will be no order as to costs.

17.03.2026

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

- 1.The Principal District Court,
Tiruvannamalai.
- 2.The Additional Subordinate Court,
Tiruvannamalai.



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S.A.No.974 of 2021

S.SOUNTHAR, J.

dm

S.A.No.974 of 2021

17.03.2026