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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-11-2026

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

SA No. 483 of 2023
and CMP.No.14979 of 2023

Case QR

CNR:{HCMA011178732023}

R.Prabhakaran
s/o Ramanathan, D.No.5/3, Sakthi
illam, Kalayanasundaram street,
Moolangoundanpalayam, Erode 2

Appellant(s)/Defendant.

Vs

1. R.Dwarakanathan
s/o Ramanathan, D.No.487/170,
Agrahara street, Erode - 1

2.R.Balamuthuiualu
s/o Ramanathan, D.No.243/1,
Valaiyakara street, Erode - 1

3.R.Uthyakumar
s/o Ramanathan, D.No.170/487,
Agrahara street, Erode-1

Respondent(s)/Plaintiffs

PRAYER

Second Appeal filed under Section 100 CPC praying to set aside the judgment and decree passed in AS No.4 of 2022 on the file of the 1st Additional Sub Court, Erode dated 05.09.2022 confirming the judgment and decree passed in

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OS No.244 of 2020 on the file of the 1st Additional District Munsif Court, Erode dated 20.12.2021 and to allow the Second Appeal.

For Appellant(s): Mr.A.Sundara Vadhanan

For Respondent(s): Mr.C.Ramaraj For R1 To R3

JUDGMENT

This second Appeal is filed as against the judgment and decree passed in A.S.No.4 of 2022 on the file of the 1st Additional Sub Court, Erode dated 05.09.2022 confirming the judgment and decree passed in OS No.244 of 2020 on the file of the 1st Additional District Munsif Court, Erode dated 20.12.2021 and to allow the Second Appeal.

2. The respondents herein are the plaintiffs before the trial court. They filed the suit in O.S.No.244 of 2020 to declare that the correct particulars of the suit property under the release deed dated 08.12.1998 as T.S.No.269 which has been wrongly mentioned as T.S.No.209.

3. After framing issues and both sides evidence, the suit was decreed. Aggrieved by that, the defendant filed appeal in A.S.No.4 of 2022. The first

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appellate Judge independently analysed the entire findings of the trial court and dismissed the appeal.

4. Challenging the concurrent findings, the defendant has filed this second appeal.

5. The learned counsel for the appellant/defendant contended that suit is filed belatedly and the objection has not been raised at the earliest point of time.

6. The learned counsel for the appellant/defendant also submits that though the plaintiffs approached the trial court for the relief of declaration to declare the correct survey number in a document executed in the year 1998, but the courts below granted decree for declaration and for mandatory injunction, which was not pleaded.

7. The learned counsel for the appellant/defendant further submits that the property was already pledged with the bank in the year 2008 and therefore, having knowledge of the same, the plaintiffs have not raised the issue with regard to wrong mentioning of T.S.Number immediately. But only very belatedly, the plaintiffs raised it and sought for rectification deed. The learned counsel for the respondents/plaintiffs submits that while preparing the release

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deed in favour of the plaintiffs, instead of giving T.S.No.269 it has been wrongly mentioned as T.S.No.209 and all other particulars except the survey number has been correctly mentioned in the release deed dated 08.12.1998. The learned counsel further submitted that only at the time of Town Sub-Inspector of Survey inspected the suit property and issued a certificate along with town survey plan and town survey re-settlement extract dated 06.08.2020 pointing out the wrong mentioning of town survey number, they came to know about the same. Therefore, the plaintiffs approached the defendant for rectification, with whom the release deed is executed.

8. It is admitted fact that the appellant/defendant and respondents/plaintiffs are brothers. The defendant being the brother of the plaintiffs had executed the release deed in favour of the plaintiffs on 8-12-1998. While describing the property, the survey number was wrongly mentioned as 209. Originally it is Town survey number 269. The suit property is situated in T.S.No.269. Admittedly the Town Sub-Inspector of Survey, while measuring the property, issued a certificate along with town survey plan and town survey re-settlement extract pointing out the wrong mentioning of town survey number. Therefore, rectification deed is sought in the suit and the suit was decreed.

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9. Admittedly, the suit schedule property is not in dispute and the parties who were in possession of the property, is also not disputed. The four boundaries of the property is also not in dispute. Only survey number is in dispute. It is mistakenly mentioned as 209 instead of T.S.No.269.

10. The objection raised by the appellant/defendant is that the said document viz., the release deed was prepared and provided by the plaintiffs, thereby contend that they alone committed the said mistake but now they made false claim against him. The said objection has been considered.

11. As on date the correct survey number is not mentioned in the release deed. So it is bound to be rectified with the correct survey number ie., T.S.No.269 by deleting T.S.No.209. Therefore, the appellant/defendant is directed to execute the rectification deed within six weeks from the date of receipt of a copy of this order. If the appellant/defendant is not inclined to rectify the release deed, the respondents/plaintiffs can approach the Executing Court to get the rectification deed and the same is to be disposed of within four weeks.

12. However, taking note of the entire facts and circumstances, it is transpired that the release deed is of the year 1998. But suit was not filed

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immediately by the plaintiffs also taken note of and that the said document was carelessly prepared by plaintiffs. Therefore this court directs the respondents/plaintiffs to pay cost of Rs.50,000/- [Rupees Fifty thousand only] to the appellant/defendant on the date of executing rectification deed.

13. The second appeal is disposed of on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

04-11-2026

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

nvsri

To

1.The 1st Additional Sub Court, Erode

2.The 1st Additional District Munsif Court, Erode

3.The Section Officer, V.R.Section, High Court, Madras.

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T.V.THAMILSELVI J.

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