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A.S.No.1032 of 2024 and
C.M.P.No.27149 of 2024

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SATHI KUMAR SUKUMARA KURUP, J.

Learned Counsel for the Appellant submits that Appellant is the Defendant in O.S.No.111 of 2018 on the file of the learned III Additional District and Sessions Judge, Erode at Dharapuram. The suit was filed by the sister of the Appellant as Plaintiff seeking relief of partition.

2. As per the submission of the learned Counsel for the Appellant, he is the only son of his father Ramasamy Gounder. The Plaintiff is the only sister of the Appellant. She was married in the year 1972 and a property was settled in her husband's name. She had filed suit for partition after several decades. The suit itself is not maintainable. After the death of the father of the Plaintiff and Defendant, the Revenue records of the suit property was transferred in the name of Defendant. While so, the Plaintiff had filed the suit for partition which was resisted by the Defendant. Issues were framed. Trial proceeded. Both sides had adduced evidence. In the course of the trial in the cross examination Plaintiff as P.W-1 had admitted his suggestion of the Defendant



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that a property was settled in her husband's name, Chinnasamy. The learned Judge on appreciation of evidence, failed to consider the admission made by the Plaintiff as P.W-1 in the witness box and had instead granted the preliminary decree for partition of ½ share in the suit properties. Aggrieved by the same, the Defendant had approached this Court by filing this Appeal. Pending Appeal, the learned Counsel for the Appellant seeks interim stay of the preliminary decree for partition in favour of the Respondent.

3. Issue summons to the Respondent in the Appeal. Issue notice to the Respondent in C.M.P returnable by four weeks. Private Notice is also permitted. Also, the learned Counsel for the Appellant is directed to cause notice on the learned Counsel for the Plaintiff before the trial Court.

4. Post the case after four weeks.

5. There shall be an order of Interim stay of the operation of the preliminary decree for partition.

04.12.2024

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