



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2016

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A. (MD) No.1056 of 2015

and

M.P. (MD) .2 of 2015

Samuvel (died)

- 1.Boopathi Raja
- 2.Regupathi Raja
- 3.Karthick Raja
- 4.Dhanalakshmi
- 5.Mullaikkodi
- 6.Maheswaran
- 7.Porkodi

..Appellants/Respondents
2to 8/defendants 2 to 8

**(Cause title Accepted as per the Order
of the court dated 7.8.15 made in
MP(MD)No.1/2015 in CMA SR24702/2015
by PDSJ)**

Vs.

- 1.Thirumalar Mani
- 2.Gunasekaran
- 3.Rajamanickam

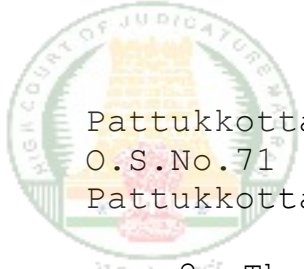
.. Respondents/Appellants/
plaintiffs

Prayer:- Appeal filed under Order 41 Rule (1) of Civil Procedure Code, against the order of remand made in judgment and decree dated 28.11.2014, passed in A.S.No.40 of 2010 on the file of the learned Sub Judge, Pattukkottai reversing the judgment and decree dated 26.07.2010 in O.S.No.71 of 2005 on the file of the learned District Munsif, Pattukkottai.

For Appellants	: Mr.R.P.Ramachanthiran
For Respondents	: Mr.S.S.Sundar
	For RR 1 & 2
	Mr.V.Ramamoorthy
	For R3

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the order of remand made in judgment and decree dated 28.11.2014, passed in A.S.No.40 of 2010 on the file of the learned Sub Judge,



Pattukkottai reversing the judgment and decree dated 26.07.2010 in O.S.No.71 of 2005 on the file of the learned District Munsif, Pattukkottai.

2. The respondents filed Suit in O.S.No.71 of 2005 against one Samuvel and appellants 1 to 3 herein, for declaration and permanent injunction and the same was dismissed. After the dismissal of the Suit, the first defendant Samuvel died and his legal heirs were impleaded. Against the said order of dismissal, the respondents herein filed A.S.No.40 of 2010. When the appeal is pending, the respondents have filed three applications in I.A.Nos.4 of 2011, 55 of 2011 and 50 of 2014 for reception of additional documents. The appellants filed I.A.No.83 of 2013 for reception of additional documents. The first Appellate Court, after considering the matter on merits, remanded back to the trial court, directing the trial judge to mark the documents filed in the applications and give an opportunity to the parties herein to let in evidence. Against that order the present Civil Miscellaneous Appeal is filed.

3. Heard both side and perused the materials available on record.

4. When the appeal was listed under the caption 'for adjourned admission', all the respondents were served and both counsel for appellants and respondents submitted that the learned trial judge may be directed to receive additional documents and give another opportunity to both parties to conduct the trial.

5. In view of the said submissions on both side, this Court directs the learned District Munsif, Pattukkottai, to give an opportunity to both appellants and respondents to file additional documents and let in evidence and dispose the suit on merits in accordance with law. Both parties are directed to produce additional documents apart from the documents already produced.

6. With the above direction, this Civil Miscellaneous Appeal is disposed of. No Costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar



PJL

To

1 The SubOrdinate Judge, Pattukkottai.

2 The District Munsif Court, Pattukkottai.

+1CC to Mr.R.P.Ramachanthiran Advocate Sr.No.16193

+1CC to Mr.S.S.Sundar Advocate Sr.No.16234

GJM/AAL/MPA/25/4/16-3p-5C

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