



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Tuesday, the Twenty Ninth day of November Two Thousand Sixteen

PRESENT

The Hon`ble Mr.Justice S.S.SUNDAR

CMP(MD) No.11422 of 2016
IN
SA(MD) No.737 of 2011

PALRAJ,

... PETITIONER/APPELLANT

Vs

1 CHELLAIAH (DIED)

... DIED/1st RESPONDENT

2 MUNIAMMAL

3 KUMARASAMY

4 CHANDRABOSE,

5 RAJAMMAL

6 RAJKUMAR

... 2 to 6 Respondents/
2 to 6 Respondents

7 PALRAJ

8 ANNAPUSHPAM

9 LAKSHMI

10 MANICKAM,

11 SANTHI

...7 to 11 Respondents/
7 to 11 Respondents

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to permit the petitioner/appellant to withdraw this Second Appeal - SA (MD)No.737 of 2011 from the file of this Honourable Court and consequently without prejudice to the rights of the petitioner / appellant permit to file a fresh suit and thus render justice.

PRAYER IN SA(MD) No.737 of 2011:

To prefer this memorandum of Second Appeal as against the Judgment and Decree made in AS.No.2/2008 dated 26/02/2010 passed by the Learned Sub Ordinate Judge, Ramanathapuram as against modifying the Judgment and Decree in OS.No.59/2000 dated 30/10/2007 passed by the learned District Munsif Court, Ramanathapuram.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.P.VAIRAVA SUNDARAM, Advocate for the petitioner and MR.R.GANDHI, Advocate for the Respondent, the court made the following order:-



The learned counsel for the respondents has no objection to allow this petition. However, they take exception to the contention of the petitioner in the affidavit filed in support of this petition.

Having regard to the facts that the suit for partition has been filed without impleading all the persons who are co owners and interested in that property. In the interest of Justice, this Court feels that the appellant can be given permission to withdraw this appeal with liberty to file fresh suit on the same cause of action. Hence, this petition is allowed without prejudice to any of the contention of the respective parties.

The Registry is directed to call for records, so that the parties may be in a position to get back any of the documents filed in the suit that may be required in the fresh suit.

sd/-
29/11/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE SUBORDINATE JUDGE,
RAMANATHAPURAM
- 2 THE DISTRICT MUNSIF
RAMANATHAPURAM

Copy to:
The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court,
Madurai

+1. C.C. to MR.R.GANDHI, Advocate SR.No.74899

ORDER
IN
CMP (MD) No.11422 of 2016
IN
SA (MD) No.737 of 2011
Date :29/11/2016