

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 03RD DAY OF MARCH 2017

THE HON'BLE MR. JUSTICE P.VELMURUGAN

A.No.24 of 2017

in

C.S. No.83 of 1965

C.S. No.83 of 1965:-

Meenakshi Achi
No.30-A, Lange Garden Road,
Chennai 600 002

.. Plaintiff

Vs

- 1.PL.CT.SP.Subramanian Chettiar (Died)
Residing at Gaiety Theatre,
Blackers Road, Mount,
Chennai 600 003.
- 2.PL.CT.PL Palaniappa Chettiar (Died)
C/o C.T Transport Residing at
Namakkal Salem District
- 3.CT.Senthilnathan Chettiar,
Residing at No.40-B Rathna Nagar,
Royapettah, Chennai 14
- 4.Sivakami Achi (Died)
Residing Manoranjitham Street,
Devakottai,
Ramanathapuram District.
- 5.Umayal Achi (Deceased)
Residing Sivankoil South Street,
Devakottai, Ramanathapuram District.
- 6.Valliammai Achi (Died)
Residing at Karthaoorani East Street,
Devakottai, Ramanathapuram District.
- 7.Andiappan,
Residing at T.S.PL.P House
Manoranjitham Street,
Devakottai, Ramanathapuram District.
- 8.M.Subbiah,
Proprietor of Mani & Co
Residing at Rasipuram,
Salem District

9.Narayanan Chettiar,
Residing at No.5, Williams Road,
Cantonment, Tiruchirapalli

10.TA.S.R.M.A.A.R.M.Annamalai Residing at
Tiruchulli House
Vatanam Road, Devakottai Ramanathapuram District.

(defendants 7 to 10 added as per order of court dated
3.07.1970 in Application no.344 of 1970)

11.Abdul Hameed Sahib
Residing at Vice Chairman E V Nanchappa
Chettiar Road, Erode Town,
Coimbatore District.

12.Senkoda Gounder,
Residing at Chidambaram Chettiar Colony,
Erode Town, Coimbatore District.

13.Sampoornam
Residing at Chidambaram Chettiar Colony,
Erode Town, Coimbatore District.

14.Ramasami Gounder,
Residing at Chidambaram Chettiar Colony,
Erode Town, Coimbatore District.

15.Manickam
Residing at 18, Muthu K.R.Street,
Devakottai

16.V.Lakshmi,
Residing at R.M.K.House
Alampattar Street,
Devakottai

17.Kamalammal
Residing at No.28, Muthu K.R.Street,
Devakottai

18.Lakshmanan
39, Teacher Panchayathu Union School
Thottiyam, Trichy District.

19.Viswanathan
Panchyath Union Office,
Krishna Raja Puram
Kulithalai Post

20.N Nagappan,
K R Street,
Devakottai

21.N.Muthukrishnan,
Residing at 1/20, Muthu KR Street,
Devakottai

22.Nagammai
Ari Oli Illam,
Kallu Pattu (Via) Karaikudi,
Ramnad District

23.N. Nagammai
No.20, Muthu KR Street,
Devakottai

(Defentants 11 to 23 added as per order of court dated
12.01.1977 in A.No.278 of 1976)

24.The Official Receiver,
Ramanathapuram,
Madurai

(Defendant 24 added as per order of Court dated 23.06.1978
in A.No.151 of 1978)

25.RM.Meenakshisundaram Chettiar

26.M.Veerappan

(Defendants 25 to 26 added as per order of court dated
23.12.1986 in A.No.214 of 1986)

27.Narayanan

28.Renganayaki
residing at Karunanithi Theru
Ulaganthapuram Trichy

29.Thendayutham

30.Natarajan

31.Thangamani

32.Arumugam

33.Chithirai

34.Mathi

35.Thangaraj

36.Durai

37.Shanmugam

38.Palamuthu

39.Maruthai

40.Auto Mani

(Defendants 27, 29 to 40 Residing at Karunanithi Theru,
Ulaganthapuram Trichy)

41.Kamatchiammal
Residing at Mudugupati

42.N.Manokaran
Residing at Kamurutheen Street,
Kallukuzhi,
Thrichirapalli

43.Irulappan,
Residing at Pudukottai Road,
Tolgate
Trichy 20

44.Sebastian Residing at
Pudukottai Road, Tolgate,
Trichy 20

45.Vellasami
Residing at East Pullivar Road,
Rajalingam Lorry Shed,
Trichy

46.M Ponnai
Residing at
East Pullivar Road
Rajalingam Lorry Shed,
Trichy

47.C.Velu
Residing at Ulaganthapuram
Kallukudi

(Defendants 27 to 47 added as per order of court dated
28.9.2007 in A.No.1347 of 1988)

48.Thoni Prakathambal Achi
Residing at NO.2, Manoranjitham Street,
Devakottai

49. Umayal Achi
Residing at No.2, Manoranjitham Street,
Devakottai
50. S.P. Meenakshi Sundaram
Residing at No.5, Williams Road,
Contonment, Trichi
51. S.P. Chidambaram
Residing at No.5, Williams Road,
Contonment, Trichi
52. S.P. Palaniappan
Residing at No.11/M Braacks Colony,
E.V.R. Road, Pudut, Trichy.
53. S.P. Ravi,
Residing at A.P.738, G Block,
2nd Street, Anna Nagar West,
Blue Star Post Office, Madras
54. SP Subramanian,
Office at Sakthi Finance,
Dr. Nanjappa Road, Coimbatore
55. V. Umayal,
56. S. Meenal
Residing at Krishnasamy Ashew,
Luz Church Road, Mylapore 600 004
57. C. Sivagama
Residing at Geethanjali B,
Ajmeera Housing Complex,
Primpri,
Pune 411 018
58. S. Sivagami
Residing at No.2, Manoranjitha Street,
Devakottai
59. M. Meena
Residing at C/o RM Manikkam,
Tan India Limited,
Mettupalayam
60. PL. Valli
Residing at No.5, Ramakrishna Road,
T. Nagar,
Madras 600 017

61.L.Meenal
Residing at No.2, Manoranjitha Street,
Devakottai

62.E.Swarna
Residing at No.2, Manoranjitha Street,
Devakottai

(Defentants 48 to 62 added as per order of court dated
06.09.1991 in A.No.1845 of 1990 as extended by order dated
04.10.2007 of the Court in C.S.No.83 of 1965)

63.Annamayil@Azhagammal
Residing at 8th Street, II Street
Vaishanvi Nagar, Railway Car Shed Complex Post,
Madras 109

(Defendant 63 added as per order court of dated 23.03.1998
in A.No.787 of 1997 as extended by order dated 4.10.2007 of
the court in C.S.No.83 of 1965)

64.Meenakshi Narayanan
D.No.5, Naveed Castele,
New NO.20, Balakrishna Road,
Mylapore Ch 600 004.

65.Namagiri Narayanan
3D, Sp.L.Uma Apartment,
No.34, Luz Church Road,
Mylapore Chennai 600 004

66.L.Sivagami Lakshmanan
No.60-B, Eaden Garden,
5th Main Road, Srinivasanagar,
Trichy 620 017

67.B.Renganayaki Balachandran
No.16, New Raja Colony
Srivariee House, Beemanagar,
Trichy 620 001

68.V.Usha Vellayan
No.173, West Sambadam Road,
R.S.Puram, Coimbatore 2

69.V.Shanthi Venkatachalam
D4, Lakshmi Flat,
No.179, Lloyds Road,
Royapettah,
Chennai 600 014

70.VR.Vijayalakshmi Veerappan
13/29, Manavika Flat,
No.5, Balajinagar, 1st Street,
Royapettah, Chennai 600 014

71.Lakshmi Narashiman
No.3, Manoranjitham Street,
Karur House, Devakottai 630 302

72.PL.Senthil
F.No.2, Rajeshwari Apartment,
25/26, Warren Road,
Mylapore Ch 600 004

73.C.Chellammai Chidambaram
W/o Late PL.Chidambaram
No.2/212/1, Thamarai Theru
Ezhil Nagar, BHEL Township
Trichy 620 014

74.M.Muthulakshmi
W/o.T.Muthukarruppan
No.31/49, Car Street,
Karur.

(Defendants 64 to 73 are impleded as legal heirs of
deceased 2nd defendant as per order in A.No.7616 of 2015
dated 23.01.2015)

75.N.Meenal
W/o S.Narayanan
New NO.1, Crescent Street,
Seethammal Colony,
Alwarpet, Chennai 18

(Defendants 74 to 79 are impleded dated 15.02.2016 in
A.Nos.3108 and 3694 of 2012)

76.Nalini Arulmozhi,
W/o Arulmozhi No.6,
PL.A.Street,
Devakottai

77.L.S.Vadivel @ L.Senthilvadivel
No.6, Rukamani Flat,
Saragapani Street,
T.Nagar, Chennai 17

78.L.Chidambaram @ Kittu
A-3, Sreya Nandhini Apartment 3rd Floor,
No.95/125, St.Marys Road,
Chennai 18

79.T.Sivagami
 W/o PL.Thinappan,
 No.17/13, State Bank of India Colony,
 Tarapuram Road,
 Udamalpet,
 Tirupur District .. Defendants

A.No.24 of 2017:-

The Siloam Evangelical Mission Private Ltd
 9, Ranga Nagar,
 Subramaniapuram,
 Trichy 620 020 .. Applicant

Vs.

Meenakshi Achi
 W/o Karuppan Chettiar
 No.30-A, Lange Garden Road,
 Chennai 600 002 .. Respondent

Application praying that this Hon'ble Court be pleased to recall the order dated 21 December 2016 in A.No.5132 of 1992 in A.No.4085 of 1984 in C.S.No.83 of 1965.

This application coming on this day before this court for hearing the court made the following order:

The applicant herein is the third party in the suit. The applicant has filed this application to recall the order dated 21.12.2016 in A.No.5132/1992 in A.No.4085/1984 in C.S.No.83/1965.

2. The learned counsel for the applicant would submit that the application in A.No.5132/1992 was filed by the respondent/plaintiff for impleading this applicant in A.No.4085/1984. The said application was pending from 1992 till 21.12.2016. When the matter came up before this court

for hearing on 21.12.2016, either the applicant or the counsel were present on that day. The application was dismissed as withdrawn based on the endorsement made by the learned counsel for the plaintiff/applicant therein. The application ought not to have been allowed to dismiss as withdrawn since before withdrawing the said application, the applicant ought to have been given an opportunity for making his submission. Therefore, the order passed by this court dated 21.12.2016 has got to be recalled and has placed reliance on the judgment of Seethai Achi Vs. Meyyappa Chetti and others reported in LXVI MLJ 517.

3. On perusal of the records with reference to the A.No.5132/1992, it is seen that the application was filed by the respondent/applicant to implead the proposed parties as respondents in the final decree application in A.No.4085/1984. The notice was served to the proposed parties. The applicant entered appearance through counsel and has also filed counter affidavit. The prayer in the counter affidavit was that dismissal of the impleading application. Even that application was pending from the year 1992 till December, 2016 which shows that the applicant herein vehemently contested that application and objected to implead them as respondents in A.No.4085/1984. In the meanwhile, the applicant has filed two applications viz., A.Nos.3108/2012 and 3694/2012. The A.No.3108/2012 was filed by this applicant to implead the applicant as one of the respondents in the final decree

Application.No.4085/1984 and the application in A.No.3694/2012 was filed to appoint a fresh Advocate Commissioner to note down the physical features of the property. Even though these two applications were filed in the year, 2012, they were also pending till December, 2016. The A.No.5132/2012 filed by the respondent/plaintiff herein and A.No.3108/2012 filed by the present applicant against the respondent are for one and the same relief that the applicant has got to be impleaded in the final decree application in A.No.4085/1984.

4. When the matter came up before this court on 20.12.2016, both the learned counsel have summarised the history of the cases and the matter was adjourned to the 21.12.2016 for further hearing. On that day, the learned counsel for the applicant in A.No.5132/1992 has made an endorsement to the effect that he is withdrawing the application and prayed for dismissal of the application. After careful consideration of the fact that since two applications are pending for the same relief, the application in A.No.5132/1992 was pending from 28.10.1992 till 21.12.2016, the counter filed by this applicant in that application shows that the applicant herein/respondent therein has vehemently opposed to allow the said application and further the application filed by the present applicant in A.No.3108/2012 was also pending and on 21.12.2016, the court felt that the application was unnecessarily pending and therefore, the court has

dismissed that application as withdrawn. Thereafter, now this applicant has filed the present application to recall the order passed by this court on 21.12.2016 in A.5132/1992.

5. There is no quarrel with the proposition laid down in the judgment cited by the learned counsel for the applicant. But the authorities submitted by the learned counsel for the petitioner is not applicable to the present application on hand.

6. On careful perusal of the entire records and considering the facts and circumstances of the case since the applicant has vehemently opposed to allow the application in A.No.5132/1992 and after dismissal of the said application, the present application filed by the applicant herein to recall the dismissal order passed by this court is not sustainable and the order passed by this court on 21.12.2016 need not be recalled. In view of the above said circumstances, this application is liable to be dismissed.

In the result, this application is dismissed as not maintainable.

Sd/.P.V.J
03.02.2017

//Certified to be a true copy//
Dated this the day of 2017.

gm/03.03.2017

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.