



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2017

Coram:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A(MD)No.773 of 2015

and

M.P(MD)No.1 of 2015

R.Venkidasamy

.. Appellant/Respondent/Plaintiff

-Vs-

Pandian Pillai (died)

1.Rajalakshmi

2.Subbu Thayammal

3.P.Mohan

4.P.Asaithambi

5.P.Serman

6.P.Chandrasekaran (died)

7.P.Packiya Lakshmi

8.P.Jeyalakshmi

.. Respondents 1 to 8/Appellants/
Defendants

9.Chitra

10.Minor Dharsan

11.Minor Dharshini

.. Respondents 9 to 11

(RR 10 & 11 are rep. By their mother 9th respondent)

(RR 9 to 11 were brought on record as Lrs of
the deceased 6th respondent in
C.M.P(MD)No.6281 of 2016)

Prayer:- Civil Miscellaneous Appeal filed Order 43 Rule 1(U) C.P.C., against the Judgment and Decree made in A.S.No.96 of 2013, dated 04.09.2014 on the file of the Principal Sub Judge, Madurai insofar as remanding the suit in O.S.No.170 of 2008 on the file of the District Munsif cum Judicial Magistrate, Vadipatti for fresh disposal by setting aside the Judgment and Decree, dated 10.09.2013.

For Appellant

: Mr.V.S.Kishok Kumar

For RR 1 to 8

: Mr.S.Madhavan

**JUDGMENT**

The above Civil Miscellaneous Appeal has been preferred by the appellant/Plaintiff against the remand order passed in A.S.No.96 of 2013 on the file of the Principal Sub Court, Madurai.

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2.The appellant herein as plaintiff had filed a suit in O.S.No.170 of 2008 against the respondents 1 to 8 on the file of the District Munsif cum Judicial Magistrate, Vadipatti, seeking declaration that he is the owner of the property to an extent of 3 cents and for permanent injunction restraining the respondents 1 to 8 from interfering with his possession. The said suit, after contest, was decreed. Against the said Judgment and Decree passed by the District Munsif cum Judicial Magistrate, Vadipatti, an appeal in A.S.No.96 of 2013 was filed by the respondents 1 to 8 herein. The Appellate Court, on 04.09.2014, remanded the matter by setting aside the Judgment and Decree passed by the lower Court to the lower Court for the purpose of appointing an Advocate Commissioner and to identify the property. Aggrieved over the Judgment and Decree passed by the Appellate Court, the appellant has preferred the present Civil Miscellaneous Appeal.

3.When the matter has been taken up today, both the parties appeared before this Court and categorically stated that the dispute between them has been settled and the respondents have no objection to pass a decree in respect of the suit property to an extent of 3 cents situated on the Northern side in Survey No.314/1 as prayed for in the suit. Further, they agreed for survey and sub-division and enjoy their respective shares in the balance property after leaving 3 cents in the North to the appellant in Survey No.314/1.

4.A joint memo of compromise duly signed by all the parties and counter signed by the respective counsel has been filed giving the details of the compromise as stated above. Therefore, the suit filed by the appellant is decreed to an extent of 3 cents which is situated in the Northern part of the property in Survey No.314/1. If excess portion over and above 3 cents allotted to the appellant is now possessed by the appellant, surplus land shall be returned to the respondents.

5.Accordingly, this Civil Miscellaneous Appeal is disposed of in terms of the compromise. The joint memo of compromise shall form part of the decree. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

<https://hccs.ecourts.gov.in/hccsweb/Services/Compromise>

Memo xerox copy

Sub Assistant Registrar



ps
To

1.The Principal Subordinate Judge,
Madurai.

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2.The District Munsif cum Judicial Magistrate,
Vadipatti.

+1CC to Mr.V.B.Sundhareshwar, Advocate Sr.No.9031

GJM/SV/MMS/20.3.17-3p-4C

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and
M.P(MD) No.1 of 2015
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