



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

Friday, the Twelfth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mrs.Justice S.RAMATHILAGAM

CMP(MD) No.827 of 2017

IN

AS No.1344 of 1995

S.MURALI

... PETITIONER/10th RESPONDENT

Vs

1 P. BASKARAN

2 P.BALAJI

3 SUMATHI

... RESPONDENTS 1 TO 3/APELLANTS

4 P.PONNAMBALAM

5 VAIRAVAN

6 RAMANATHAN

7 ARUNACHALAM

8 RAVI

9 KALIMUTHU AMMAL

10 V.ARUNACHALAM

11 ALAGARSAMI

12 KAMALA

... RESPONDENTS 4TO12/RESPONDENTS 1TO9

13 P.R.PARVATHI AMMAL (DIED)

14 P.PERIASAMY

... RESPONDENTS 13&14/RESPONDENTS 11&12

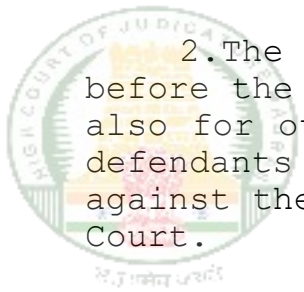
Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to pass an order directing for RETURN the original documents mentioned hereunder viz.,Exhibits B-43,B-51 to 55 in O.S.No.28/1986 on the file of Sub Ordinate Judge, Devakkottai to the petitioner.

Prayer in AS. 1344/ 1995 :

Appeal is filed, under Section 96 of the Civil Procedure Code, against the judgment and decree, dated 31.07.1992, passed in O.s.No.28 of 1986, on the file of the Subordinate Judge, Devakkottai

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. R.SUNDAR SRINIVASAN, Advocate for the petitioner and of MR.P.THIYAGARAJAN, Advocate for R4 the court made the following order:-

This Civil Miscellaneous Petition has been preferred by the petitioner seeking for a direction to return the original documents viz., Ex.B43, 51 to 55 in O.S.No.28 of 1986 on the file of the Subordinate Judge, Devakkottai.



2.The suit was filed by the respondents 1 to 3 / plaintiffs before the Trial Court for partition of their three fourth share and also for other relives challenging the alienations in favour of the defendants 1 to 11 and the said was partly allowed. Aggrieved against the same, the present Appeal Suit has been filed before this Court.

3.During pendency of the appeal, a compromise has been arrived at between the parties and a memorandum of compromise was also executed between the parties on 30.11.2015 and the judgment and decree was passed regarding the said compromise.

4.As per the terms of compromise, the property purchased by the petitioner in item No.8 of Schedule - C has been exonerated. Hence, the documents which have been marked before the Trial Court as Ex.B.43, Ex.B.51 to Ex.B.55 are no longer required and the same have to be returned to him.

5.The argument of the respondent is that as per the compromise decree, the properties were divided and he has filed A.S.No.1344 of 1995 and hence in view of the pendency of the same, the petition for returning the documents cannot be entertained.

6.On perusal of the records, it is learnt that the respondents 7 to 11 are the purchasers of the property and in view of the compromise, the respondents 7 to 11 were exonerated and the properties produced by them have exonerated from the proceedings. Now the plaintiffs have filed final decree petition before the Trial Court and these documents are no longer required for the final decree proceedings.

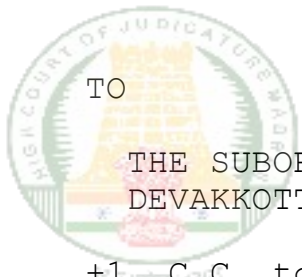
7.Hence the objection made by the respondents for return of the documents is not a proper one. Based on the arguments made on either side, the documents which have been marked as Ex.B43, Ex.B51 to Ex.B55 are no longer required for the final proceedings, this petition is allowed.

8.However, if the said documents are required for Trial Court for any clarification the same can be very well produce before the Court by the petitioner. Further, since the compromise decree was passed on 13.11.2015, the Trial Court is directed to dispose of the final decree proceedings, within a period of three months from the date of receipt of a copy of this order.

sd/-
12/01/2018

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



TO

THE SUBORDINATE JUDGE,
DEVAKKOTTAI.

+1. C.C. to M/S. R.SUNDAR SRINIVASAN Advocate SR.No.42374

+1. C.C. to M/S. P.THIYAGARAJAN Advocate SR.No.814

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ORDER

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IN

AS No.1344 of 1995

Date :12/01/2018

MKV-PM-PN-SAR 4/22.1.2018/2P-4C