



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.07.2018

CORAM :

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

A.S. (MD) No.68 of 2018

1.C.Santhanam

2.S.Senthil Arumugam

... Appellants / Plaintiffs

vs.

1.T.S.S.Shanmugam

2.S.Natarajan

3.S.T.Ganesan

4.Thiraviyam

5.Thiruvenkata Subramanian

6.Muthu Lakshmi

7.Manonmani

8.K.Muppidathi

9.K.Subbiah

... Respondents / Defendants

Prayer:-Appeal Suit filed under Section 96 r/w Order 41, Rule 1 & 2 of the Code of Civil Procedure, against the judgment and decree passed in O.S.No.94 of 2008 dated 30.10.2017 on the file of the Additional Sub Court, Tirunelveli.

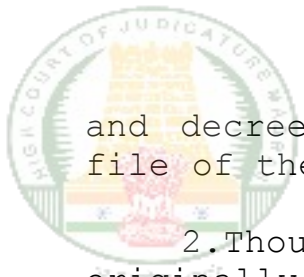
For Appellants : Mr.H.Arumugam

For R1, R4, R5 & R9 : Mr.K.Esakki

For R2, R3, R6 to R8 : No appearance

JUDGMENT

When the appeal was taken up for hearing today (10.07.2018),
<https://hcservices.ecourts.gov.in/hcservices/>
the learned counsel appearing for the appellants filed a memo to
withdraw this appeal, which has been filed against the judgment



and decree passed in O.S.No.94 of 2008 dated 30.10.2017 on the file of the Additional Sub Court, Tirunelveli.

2. Though the suit is in respect of trust and an appeal originally was filed before the District Court, Tirunelveli, it is stated that the District Court, Tirunelveli, returned the papers, on the question of maintainability of appeal before the District Court, Tirunelveli and hence, the appeal was presented before this Court in time. Since the said appeal is not a statutory appeal under the provision of Tamil Nadu HR & CE, Act, 1959 but a regular appeal under Section 96 of CPC, it is maintainable only before the District Court.

3. In that view of the matter, the appellants have preferred to withdraw the appeal with liberty to re-present the appeal memorandum before the District Court, Tirunelveli.

4. Recording the same, the appeal is dismissed as withdrawn with liberty to the appellants to re-present the appeal memorandum before the District Court, Tirunelveli, within a period of 15 days from the date of receipt of the appeal papers from this Court. No costs.

5. The Registry is directed to return the certified copy of the judgment and decree, which were filed along with the memorandum of grounds of appeal to the appellants within a period of one week after getting photostat copy of the same. The memo shall form part of this order.

Sd/-
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

Encl:Xerox copy of memo attached

To

1. The Additional Subordinate Judge,
Additional Sub Court,
Tirunelveli.
2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)



3. The Section Officer,
E.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 cc TO Mr.H.Arumugam , Advocate in SR No. 72501
+ 1 cc TO Mr.K.Esakki , Advocate in SR No. 72120

mm

AE/SV/SAR4/20.07.2018/3P/7C

A.S. (MD) No.68 of 2018
10.07.2018