

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.09.2019
PRONOUNCED ON : 04.10.2019

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

A.S.No.368 of 2010
and
MP No.1 of 2013

1. Thailambal
2. Sagundala

...Appellants/Plaintiffs

Vs.

1. Rajeswari
2. The Special Officer
Sri Regunatha Perumal Sri Venkatesa Perumal
Vagyara Devasthanam, Ramasamy Koil Street,
T.R. Pattinam.
3. Rajendiran
4. Gandhimathi Ammal
5. Sankari
6. Rukumani Ammal
7. Balaji @ Gopalakrishnan

...Respondents/Defendants

Prayer: First Appeal filed under Section 96 of Civil Procedure Code, against the judgment and decree passed in O.S.No.80 of 2002, dated 13.12.2007, on the file of the Additional District Judge, Pondicherry, Karikkal.

For Appellants : Mr.R. Natarajan
For Respondent : Mr. S. Nagarajan for R1 Rs.10-Vak
Mr. R.Vasudevan for R3 and R5 (Vak-10/-)
R2, R4, R6 & R7 - No appearance.
Set Exparte vide order dated 18.09.2019.

JUDGMENT

Aggrieved over the judgment and decree dated 13.12.2007, passed in O.S.No.80 of 2002, on the file of the Additional District Court, Pondicherry, Karikkal, the plaintiffs have preferred the first appeal.

2. For the sake of convenience, the parties are referred to as per their rankings in the trial court.

3. Suit for partition and mesne profits.

4. Briefly stated, according to the plaintiffs, one Kandian Chettiar purchased the plaint schedule property under

a Vente Grosse dated 13.06.1910, within the specific boundaries and as per the practice observed at that point of time, the property has not been described with the extent in the sale deed and Kandiah Chettiar had a brother, by name, Muthiah Chettiar. Vaithialinga Chettiar is the son of Muthiah Chettiar. Kandiah Chettiar brought up the plaintiffs and the first defendant, who are the children of Vaithialinga Chettiar and out of the love and affection, Kandiah Chettiar bequeathed the suit property in favour of the plaintiffs and the first defendant by way of the will dated 15.03.1953 after providing the life estate in favour of the Viathialinga Chettiar and after the demise of Kandiah Chettiar on 14.07.1953, the will had come into effect and Vaithialinga Chettiar died in the year 1982 and after his demise, the plaintiffs and the first defendant became entitled to the suit property and the present Ramasamy Koil Street has been identified as Ragunatha Perumal Sannathi street and the suit property is situated at the junction of Ramasamy Koil street and nadutheru in T.R. Pattinam. The Government has acquired the lands bequeathed to the plaintiffs and the first defendant in Polagam village, for the purpose of setting up an Industrial Growth Centre. On the western side of the suit property, there was a bund running south to north and the property belonging to the second defendant was lying on the western side of the bund. The Government had also acquired the bund area and formed a road known as Neduntheru and due to the same, the boundaries of the suit property and the property of the second defendant had changed. The plaintiffs are living in the eastern side of the suit property by putting up a tiled house and they applied for the patta in respect of the suit property. The suit property had been assigned the survey Nos.140/522 to 140/527. The plaintiffs' father Vaithialinga Chettiar had been granted the patta only in respect of the portion of the suit property and for the remaining portion, the patta had been issued in favour of the second defendant. The second defendant has no right or interest over any portion of the suit property and before the patta had been transferred in the name of the second defendant, no notice has been issued to the plaintiffs and the first defendant and the second defendant has committed encroachment on the western portion of the suit property despite the protest put forth by the plaintiffs and the first defendant, the defendants 3 to 6 were inducted by the second defendant into the suit property under some illegal arrangement and the defendants 2 to 6 are liable to pay damages to the plaintiffs and the first defendant for the use and occupation of the suit property. The seventh defendant is the trustee of the second defendant's temple and he also attempted to commit trespass in a small portion on the northern side of the suit property. The suit had been laid by the plaintiffs against the seventh defendant for permanent injunction in O.S.No.182 of 2002 for the relief of Permanent Injunction. The plaintiffs demanded the possession of the suit property from the defendants by way of a notice and to the same, the defendants sent a reply containing false

allegations and hence, the plaintiffs are obliged to file the suit for partition and mesne profits.

5. The defendants resisted the plaintiffs' suit contending that the suit laid by the plaintiffs is not maintainable either in law or on facts. The suit for partition can be filed only against the co-owners and the second defendant is not the co-owner of the suit property. The plaintiffs cannot maintain the suit for partition against the second defendant and except the property comprised in R.S.No.140/523, the second defendant is in the possession of the other property for several decades and the allegation put forth by the plaintiffs that the second defendant had encroached into the western portion of the suit property about 8-9 years back is false. The defendants 3 to 6 are in the possession and enjoyment of the suit property as the tenants of the second defendant. In the pre-suit notice issued by the plaintiffs, they had claimed to institute the suit for declaration of the title, instead, they had chosen to lay the suit for partition without any basis. The Commissioner, HR&CE, is the necessary party to the proceedings. Therefore, the suit is bad for non joinder of necessary parties. The plaintiffs are not the owners of the suit property except the land comprised in Rs.No.140/523. It is false to state that the bund portion was converted into the road portion recently. The land belonging to the second defendant was divided by laying road called Neduntheru and the western boundary has been shown as temple land in the document of the plaintiffs. The plaintiffs and the first defendant had also mortgaged the property to one Muthu Konar of T.R.Pattinam, and the same reflects that the suit property does not belong to the plaintiffs and the allegation of trespass put forth by the plaintiffs is false. The allegation that the seventh defendant attempted to commit trespass into the northern portion of the suit property is also false. The plaintiffs and the first defendant collusively had laid the suit and they are not entitled to claim any right over the property belonging to the second defendant and therefore, the suit laid by the plaintiffs is liable to be dismissed.

6. On the basis of the abovesaid pleas set out by the by the respective parties, the following issues were framed by the trial court for consideration.

- 1) Whether the suit property belongs to the plaintiffs' family to seek partition?
- 2) To what extent the suit property is available for partition?
- 3) Whether the plaintiffs can seek partition against the 2nd defendant?
- 4) Whether the suit for partition can be maintained by the plaintiffs against the defendants No.2 to 7?
- 5) Whether the plaintiffs are entitled for a preliminary decree as prayed for?

6) To what relief are the parties to the suit entitled?

7. In support of the plaintiff's case P.Ws.1 and 2 were examined and Exs.A1 to A10 were marked. On the side of the defendants, D.W.1 was examined and Exs. B1 to B16 were marked.

8. On a consideration of the oral and documentary evidence adduced by the respective parties and the submissions made, the trial court was pleased to dismiss the plaintiffs' suit holding that they are not entitled to claim the relief of partition against the defendants 2 to 7 in respect of the survey Nos. 140/522, 140/524 to 140/527 with costs. Aggrieved over the same, the plaintiffs have preferred the first appeal.

9. The following points arise for determination in this first appeal.

1. Whether the plaintiffs are entitled to claim partition and separate possession of their share in the suit property as prayed for?
2. Whether the suit laid by the plaintiffs for partition is legally sustainable?
3. To what relief the plaintiffs/appellants are entitled to?
4. To what relief the defendants 2 to 7 are entitled to?

M.P. NO. 1 of 2013

10. The petition has been filed by the plaintiffs/appellants seeking permission to withdraw the first appeal with the liberty to file a fresh suit for declaration of title and other consequential reliefs as available under law on the same cause of action before the appropriate court of law.

Briefly stated, according to the plaintiffs, they had claimed title to the plaint schedule property based on the will dated 15.03.1953 executed by Kandiah Chettiar and Kandiah Chettiar had acquired title to the plaint schedule property by way of the document dated 13.06.1910 and no notice had been issued to the plaintiffs in the resurvey proceedings and on account of the confusion that had emerged in respect of the resurvey proceedings, on that basis, the second defendant had disputed the claim of the plaintiffs and hence, according to the plaintiffs, their suit for partition is defective and incorrect considering the denial of their title to the suit property on the part of the second defendant and it is stated that they should have laid the suit for declaration of title and other consequential reliefs as per law and according to them, they had come to know about the same only at the time of conclusion of the trial and the arguments and in the meanwhile, the suit had come to be disposed of by the trial

court and left with no other alternative, according to them, it is put forth that they had been necessitated to prefer the first appeal and as the very frame of the suit for partition cannot survive and the plaintiffs are required only to file a suit for declaration and other consequential reliefs against the defendants and according to the plaintiffs, they should be granted the permission to withdraw the first appeal with the liberty to file a fresh suit for declaration and other consequential reliefs on the same cause of action and hence the petition.

The defendants resisted the abovesaid petition laid by the plaintiffs contending that the abovesaid petition is not maintainable. The defendants have no objection for the withdrawal of the first appeal by the plaintiffs. However, the plaintiffs are not entitled to seek permission to file a fresh suit on the same cause of action. In the legal notice, the plaintiffs had claimed that they intend to file the suit for declaration and recovery of possession and despite the reply notice issued by the defendants and the fact that the plaintiffs have no title to the plaint schedule property, instead of filing the suit for declaration, the plaintiffs had chosen to lay the suit for partition and the defendants had also resisted the plaintiffs suit contending that the same is not legally maintainable and despite the abovesaid position, the plaintiffs instead of withdrawing the suit, had proceeded and endeavoured to prosecute the suit and thereby invited the trial court to render the decision based on the materials projected by the respective parties and accordingly, the trial court on an appreciation of the materials available on record, finding that the plaintiffs have no title to the property comprised in Rs.No.140/522, 140/524 to 140/527, resultantly, dismissed the plaintiffs' suit and therefore, the plaintiffs having invited the decision of the trial court, after a period of 17 years, cannot be allowed to maintain the present petition for seeking the withdrawal of the first appeal with the liberty to file a fresh suit for declaration and other consequential reliefs on the same cause of action and hence, the petition is liable to be dismissed.

The point that arises for consideration in M.P. No.1 of 2003 is, "whether the same is entitled for acceptance?"

Point Nos.1 & 2 and point in M.P. No.1 of 2003

11. The suit has been laid by the plaintiffs seeking for partition and mesne profits against the defendants. The suit property has been described as comprising in RS. Nos.140/522, 140/523, 140/524, 140/525, 140/526 and 140/527 and the total extent of the property is stated to be 10 Ar 70 ca. The plaintiffs and the first defendant claim title to the suit property as described in the plaint through Kandiah Chettiar. According to them, particularly the plaintiffs, Kandiah Chettiar had acquired title to the suit property by way of the

sale deed dated 13.06.1910, which document has come to be marked as Ex.A1 and the translation copy of the same has been marked as Ex.A2. It is the further case of the plaintiffs that Kandiah Chettiar had bequeathed the suit property in favour of the plaintiffs and the first defendant by way of a will dated 15.03.1953, which has come to be marked as Ex.A3. Therefore, it is found that for seeking the title to the suit property as described in the plaint, the plaintiffs mainly rely upon the sale deed and the will as above stated marked as Exs. A1 and A3 respectively.

12. The second defendant, in particular, had resisted the plaintiffs' suit contending that the plaintiffs have no title to the suit property as described in the plaint and according to the second defendant, it is only the second defendant-temple, which has title to the property comprised in Rs. Nos. 140/522, 140/524 to 140/527 and it is put forth that other than the property comprised in Rs.No.140/523, the plaintiffs are not entitled to claim any right over the other properties comprised in the abovesaid survey numbers and accordingly, put forth that the plaintiffs and the first defendant have collusively instituted the suit against the second defendant and the other defendants and further according to the second defendant, the second defendant being not the co-owner of the suit property, according to it, the suit laid by the plaintiffs for partition is legally not sustainable and on that score alone, the plaintiffs' suit is liable to be dismissed.

13. In the light of the abovesaid defence version, at the foremost, the plaintiffs should establish that they and the first defendant had acquired title to the suit property by way of Exs.A1 and A3. Considering the recitals found in Ex.A1, as determined by the trial court, it is found that no measurement had been given of the property dealt under the said sale transaction. Therefore, from Ex.A1 sale deed, it cannot be held that Kandiah Chettiar owned the property to the extent of 10 Ar 70ca as described in the plaint. Similarly, in the will said to have been executed by Kandiah Chettiar marked as Ex.A3, therein also, the measurement of the property said to have been bequeathed by him has not been furnished. Therefore, it is found that Exs. A1 and A3, as such, would not be useful to sustain the claim of the plaintiffs and the first defendant for claiming share in the suit property and other than Exs. A1 and A3, there is no other material worth acceptance on the part of the plaintiffs evidencing that they had title to the suit property as described in the plaint.

14. It is found that prior to the inception of the suit, the plaintiffs have also issued notice claiming right in the

suit property. The same had been refuted by the second defendant by sending a reply. In the pre suit notice, the plaintiffs would only put forth the case that the second defendant has no title to the suit property and accordingly contended that they intend to file a suit against the second defendant for declaration of their title to the suit property and on the other hand, it is found that the plaintiffs had chosen to lay the suit against the defendants for partition. When from the inception, the second defendant had been challenging the claim of title of the plaintiffs and the first defendant to the suit property and when the title deeds projected by the plaintiffs marked as Exs.A1 and A3 do not advance their case of title to the suit property as described in the plaint and on the other hand, when the patta and the sketch projected by the second defendant marked as Exs. B8 and B9 go to show that the patta had been issued only in favour of the second defendant-temple in respect of RS. Nos. 140/522, 140/524 to 140/527, in such view of the matter, when there is no proof on the part of the plaintiffs that they and their predecessors in interest had enjoyed the suit property measuring an extent of 10 Ar 70 ca comprised in the abovesaid survey numbers, accordingly, it is found that the trial court is justified in holding that the plaintiffs have miserably failed to establish their claim of title to the suit property as described in the plaint.

15. The plaintiffs and the first defendant are found to have mortgaged their property and the copy of which deed has been marked as Ex.B1. Considering the recitals found in the sale deed Ex.A1 and the mortgage deed Ex.B1, it is found that both the documents reflect that the property lying to the east of the property described therein belongs to the temple. Therefore, it is found that inasmuch as the second defendant owned properties lying on the eastern side belonging to the plaintiffs by way of Ex.A1, it is found that accordingly while mortgaging the said property, the plaintiffs have described the eastern boundary as belonging to the temple. In Ex.A1 sale transaction also, the western boundary is only shown as Raghunatha Perumal Koil nilam and in Ex.B1 mortgage, the western boundary is described as Ramasamy koil manai. Therefore, as held by the trial court, from the inception, the properties on the western side had been described as belonging to the temple and therefore, the plaintiffs, without any basis, cannot put forth any claim of title to the properties belonging to the temple.

16. According to the plaintiffs, there has been a bund running north south on the western side and the Government had acquired the same and formed a road known as neduntheru and accordingly, it is put forth further that following the resurvey proceedings effected without notice to the plaintiffs and the first defendant, the second defendant had been held to

be the owner of the suit property and hence, according to the plaintiffs, the second defendant cannot deny the claim of title of the plaintiffs to the suit property. However, when as above pointed out, the title deeds of the plaintiffs marked as Exs.A1 and A3 do not reflect that the suit property as described in the plaint had been dealt there under and particularly, the abovesaid documents do not reflect the measurement of the property dealt therein, in such view of the matter, it is found that the plaintiffs cannot be allowed to find fault with the resurvey proceedings and contend that the patta had come to be wrongly issued in favour of the second defendant-temple. When the documents projected by the plaintiffs marked as Exs.A1 and the mortgage deed executed by them marked as Ex.B1, clearly point out that the properties lying on the western side only belongs to the second defendant-temple and when the plaintiffs have miserably failed to establish that the bund running north to south belonged to them and if really the same belonged to them, materials would have been projected by the plaintiffs with reference to the acquisition of the same by the Government and on the other hand, when no such material has been projected by the plaintiffs, the plaintiffs cannot be allowed to contend that the bund originally belonged to them and the second defendant cannot lay any claim of title to the suit property.

17. From the materials placed on record, it is found that the suit property has been in the possession and enjoyment of the defendants 2 to 7 over a period of time and according to the second defendant, the defendants 3 to 6 are the tenants of the second defendant-temple. Therefore, when the possession of the suit property by the second defendant and its tenants over a period of time are brought home and the plaintiffs have miserably failed to establish the alleged trespass said to have have been committed by the defendants 3 to 6 and the second defendant into the suit property as put forth in the plaint and moresoever, when the plaintiffs have miserably failed to establish their claim of title to the suit property by way of Exs.A1 and A3 and when the property mortgaged by the plaintiffs show only the lesser extent and not the property measuring an extent of 10 Ar 70 Ca, in all, it is found that the plaintiffs had miserably failed to establish their claim of title to the suit property and on the other hand, without any basis, they seem to have laid the suit for partition against the temple, namely, the second defendant and its tenants and on that score, it is found that the suit for partition laid by the plaintiffs against the defendants 2 to 6 is not legally sustainable as the second defendant and the defendants 3 to 6 cannot be termed as the co-owners of the suit property along with the plaintiffs. As above pointed out, the second defendant had acquired independent claim of title to the suit property by obtaining the patta, etc., and in all, it is found that the suit laid by the plaintiffs is not legally maintainable and the plaintiffs are also found to be

not entitled to claim any share in the suit property particularly, comprised in RS Nos.140/522, 140/524 to 140/527.

18. Knowing fully well that the plaintiffs cannot maintain the suit for partition, particularly against the defendants 2 to 7, it is found that the plaintiffs have now come forward with the petition seeking permission to withdraw the first appeal with the liberty to file a fresh suit for the relief of declaration and other consequential reliefs against the defendants 2 to 7 on the same cause of action. According to the plaintiffs, they had come to know about the formal defect which had crept in the institution of the suit at the time of the conclusion of the arguments before the trial court and by that time the suit had also come to be disposed of and hence according to them, left with no other alternative, they had been necessitated to lay the appeal and hence put forth that they had been constrained to prefer the petition at present for seeking the withdrawal of the first appeal with the liberty to file a fresh suit for the relief of declaration and other consequential reliefs against the defendants on the same cause of action.

19. The abovesaid petition had been strongly resisted by the defendants contending that the same is misconceived and according to them, even in the reply notice, the second defendant had disputed the claim of title of the plaintiffs to the suit property and further it is stated that the plaintiffs had also been only urging that they would be instituting the suit for declaration against the defendants in the pre suit notice and on the other hand, they had chosen to levy the suit for partition without any basis and not only that, despite the stand taken by the defendants in the written statement that the suit laid by the plaintiffs for partition is not maintainable against the defendants, despite knowing the abovesaid defence version, instead of seeking the withdrawal of the suit at the inception, it is put forth that, the plaintiffs had proceeded to continue the prosecution of the suit without any basis and thereby invited the decision of the trial court on the basis of the materials placed on record and therefore, it is contended that the trial court had also been necessitated to frame the issue as regards the maintainability of the plaintiffs suit for partition and determined that the plaintiffs' suit for partition is not maintainable and therefore, having invited the decision of the trial court one way or the other, according to the contesting defendants, the plaintiffs cannot be permitted to withdraw the appeal with the liberty to file a fresh suit for declaration and other consequential reliefs on the same cause of action and the suit is liable to be dismissed.

20. As rightly put forth by the contesting defendants, the plaintiffs knowing very well that they would not be entitled to maintain the suit for partition against the temple, had only been urging that they would be necessitated to file the suit for declaration in the pre suit notice and despite the above stand, they had chosen to levy the suit for partition. The second defendant, at the inception, i.e. in the written statement itself challenged the maintainability of the suit for partition. Despite the same, the plaintiffs had proceeded to conduct the suit insisting that the suit for partition laid by them is maintainable. As abovenoted, in the light of the defence version, abovestated, the trial court had also framed an issue as regards the maintainability of the plaintiffs' suit for partition against the defendants 2 to 7 as issue No.4. The trial court had analysed all the materials available on record, noting that the plaintiffs have failed to establish their claim of title to the suit property based on Exs.A1 and A3 and the plaintiffs are found to have dealt with the property comprising of a lesser extent by way of Ex.B1 mortgage and further noting that it is only the second defendant who has a valid claim of title to the suit property, on the whole, determined that the plaintiffs have miserably failed to establish their claim of title to the property comprised in RS. Nos. 140/522 and 140/524 to 140/527 and accordingly held that the plaintiffs are not entitled to maintain the suit for partition against the defendants 2 to 7. Therefore, the plaintiffs having proceeded with the suit and invited the trial court to render a decision as regards the maintainability of the suit one way or the other, after the conclusion of the suit, cannot be allowed to seek the withdrawal of the first appeal by claiming that they should be granted the permission to file the suit for declaration and other consequential reliefs on the same cause of action. When the second defendant had challenged the maintainability of the suit in the written statement itself and the plaintiffs are fully aware of the same, in such a position, the plaintiffs should have not proceeded with the suit by inviting the decision from the trial court, particularly, as regards the maintainability of the suit and in such view of the matter, in my considered opinion, if, at this stage of this matter, the plaintiffs are permitted to withdraw the first appeal and institute a fresh suit for the relief of declaration and other consequential reliefs on the same cause of action, the same would cause a serious prejudice to the second defendant and the other defendants and accordingly it is to be held that the present petition laid by the petition for seeking the withdrawal of the appeal with the liberty to file a fresh suit on the same cause of action is not entitled for acceptance.

21. The plaintiffs' counsel in support of his contentions placed reliance upon the decisions reported in 2013 (5) CTC 385 (Rajamanickam vs. P. Dhandapani and others) and 2016 1 LW 92 (Rajadasundaram & others vs. Murugan). In the abovesaid

decisions, first cited, it is found that the suit had been laid against the defendants 1 to 8 and the reliefs had been claimed only as against the defendants 1 to 5. Inasmuch as, the defendants 1 to 5 had remained *exparte* and as no relief had been claimed against the defendants 6 to 8 and the defendants 6 to 8 had been added only as a formal parties, accordingly, in such a scenario, it is found that on the facts and circumstances of the said case, the permission had been granted to the plaintiffs for withdrawal of the suit at the second appeal stage by holding that by way of the same, no serious prejudice would be caused to the defendants who had remained *exparte* and the formal defendants who had been contesting the plaintiffs' suit. However, insofar as our case is concerned, as above pointed out, right from the inception, the second defendant had been insisting that it is only the temple, which is having the title to the suit property and the plaintiffs have no title to the suit property and accordingly contending that the plaintiffs' suit for partition is not maintainable against the second defendant. In such view of the matter, despite the abovesaid position, the plaintiffs having proceeded to continue with the suit and invite the decision of the trial court one way or the other, both as regards their claim of title to the suit property as well as the maintainability of the suit laid by them for partition against the second defendant and the abovesaid points having been held against the plaintiffs, in such view of the matter, it is found that the abovesaid first decision relied upon by the plaintiffs' counsel would not have applicability to the case at hand and on that basis, the plaintiffs cannot be allowed to contend that irrespective of the abovesaid factors, the plaintiffs should be granted the liberty to file a fresh suit on the same cause of action.

22. In the second decision relied upon by the plaintiffs, abovestated, it is found that the formal defect of action had occasioned on account of the fact that the plaintiffs therein had omitted to include all the properties and also failed to implead all the necessary parties and on that score, apprehending that the suit may fail on account of the partial partition, in such a background, it is found that the permission had been granted to the plaintiffs therein for the withdrawal of the suit with the liberty to file a fresh suit based on the same cause of action. However, no such eventualities arise for the plaintiffs in the present *lis*. The plaintiffs are found to have laid the suit against the defendants without any basis of claim of title to the suit property as described in the plaint and also fully aware that it is only the second defendant, which had been granted the patta in respect of the suit property and in such view of the matter, when the plaintiffs have also failed to project the claim of title to the suit property based on Exs.A1 and A3 and on the other hand, the second defendant being found to be the owner of the suit property as determined by the trial court,

in such view of the matter, it is found that the second decision relied upon by the plaintiffs' counsel also would not be applicable to the facts and circumstances of the case at hand and accordingly, it is found that the petition laid by the plaintiffs for seeking the withdrawal of the first appeal with the liberty to file a fresh suit on the same cause of action cannot be countenanced in any manner.

23. In the light of the abovesaid discussions, the plaintiffs are held to be not entitled to seek the partition and separate possession of share in the suit property, particularly, comprised in RS. Nos. 140/522 and 140/524 to 140/527 and furthermore, it is found that the plaintiffs' suit for partition is not legally maintainable against the defendants 2 to 7. Accordingly, it is further held that the petition laid by the plaintiffs seeking for the withdrawal of the first appeal with the liberty to file a fresh suit for declaration and other consequential reliefs on the same cause of action is misconceived and not entitled for acceptance. Accordingly, the point Nos.1 and 2 in the first appeal and the point in M.P.No.1 of 2013 are answered against the plaintiffs and in favour of the contesting defendants.

Point Nos.3 and 4

24. For the reasons aforesaid, the judgment and decree dated 13.12.2007, passed in O.S.No.80 of 2002, on the file of the Additional District Court, Pondicherry, Karikkal, are confirmed and resultantly, the first appeal is dismissed with costs. M.P. No.1 of 2012 is dismissed. Consequently, connected miscellaneous petition, if any, is also closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Copy to

1. The Additional District Judge,
Additional District Court, Pondicherry, Karikkal.
 2. The Section officer, V.R. Section, High Court, Madras
- +1 cc to Mr.R.Natarajan, Advocate,sr.84726
- +1 cc to Mr.T.Susindram, Advocate,sr.85166.

Br (co)

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A.S.No.368 of 2010