

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.09.2019

CORAM

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

S.A.No.1878 of 1999

and

CMP.No.20705 of 1999

Arulmigu Someswara Swamy
and Vinayagar Temple Modachur
Rep.by its Hereditary Trustee
M.S.Sivagiri Gurukkal ... Appellant/Plaintiff

Vs.

1.K.P.Thangavel
2.R.Manickam
3.Balasubramaniam
4.Bhuvaneswaran
5.Gopal
6.Pachiammal
7.Minor Senthoo @ Srinivasan ... Respondents/2nd
Rep.by his guardian Grand Defendant and third
mother Pachiammal Parties/Respondents 2 to 8

PRAYER : Second Appeal filed under Section 100 of C.P.C.,
against the decree and judgment dated 21.12.1998 passed in
A.S.No.120 of 1995 on the file of the Sub-Court,
Gobichettipalayam, preferred as against the decree and
judgment dated 13.10.1995 passed in O.S.No.899 of 1992 on the
file of the District Munsif Court, Gobichettipalayam.

For Appellant : Mrs.R.Meenal
For Respondents : Mr. M.Guruprasad
for R2 to R5

JUDGMENT

This Second Appeal has been filed by the plaintiff
against the judgment and decree passed by the Sub-Judge,
Gobichettipalayam in A.S.No.120 of 1995 dated 21.12.1998
confirming the judgment and decree passed by the District
Munsif, Gobichettipalayam in O.S.No.899 of 1992 dated
13.10.1995.

2. The suit in O.S.No.899 of 1992 had been filed on
behalf of Arulmigu Someswara Swamy and Vinayagar Temple
Modachur represented by its Hereditary Trustee
Mr.M.S.Sivagiri Gurukkal for declaration and recovery of
possession of the suit property. The learned District Munsif,
Gobichettipalayam by the judgment dated 13.10.1995 had

dismissed the said suit. Aggrieved by the same, the plaintiff had filed an appeal in A.S.No.120 of 1995 on the file of the Sub-Judge, Gobichettipalayam. The learned Sub-Judge, Gobichettipalayam by the judgment dated 21.12.1998 had dismissed the said appeal confirming the judgment and decree passed by the trial Court. Feeling aggrieved, the plaintiff had filed the present Second Appeal.

3. The learned counsel for the appellant has submitted that the hereditary trustee Mr.M.S.Sivagiri Gurukkal, who represented the appellant temple died on 13.12.2012 and the same has been reported to this Court on 26.02.2019. She further submitted that some more time may be granted to substitute the trustee.

4. Eventhough the hereditary trustee Mr.M.S.Sivagiri Gurukkal, who represented the appellant temple died on 13.12.2012, and sufficient time also granted for taking steps to substitute the trustee, so far steps not taken. Hence, the request made by the learned counsel for the appellant is rejected. The second appeal is dismissed for non-prosecution. Consequently Connected Miscellaneous Petition is also closed. No costs.

5. The learned counsel for the appellant made a request to give liberty for filing restoration petition by other trustees. If law permits, they can file such a petition and for that no permission is required.

-s/d-

Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

To

1.The Judge, The Sub-Court, Gobichettipalayam.

2.The District Munsif,

The District Munsif Court, Gobichettipalayam.

Copy to

The Section Officer, VR Section,
High Court, Madras.

+1 CC to Mr.M.Guruprasad, Advocate sr 82073.

+1 CC to Mr.R. Subramaniyan, Advocate sr 82071.

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and

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VGII(CO)

SP(11/11/2019)

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