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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

A.S.No. 496 of 2011

And

S.A.No. 1067 of 2003

And

Cont.P.No. 1197 of 2009

A.S.No. 496 of 2011

Raghuraman Pillai (died)

G.R.Venkatesan (L.R of 1st defendant)

... Appellant/

Vs

1. Soodamani Ammal (died)
2. Jothiramalingam
3. Yoganandam
4. Thirunavukkarasu (died issules)
5. Kausalya
6. Santhi
7. Kaveri
8. Pattabiraman (died)
9. Jamuna Rani
10. Ravi
11. Sathiyavani
12. Varalakshmi
13. Kavitha
14. Soundararajan
15. P.Kothandaraman
16. P.Mohanasundaram



17. P.Mehanathan

... Respondents

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PRAYER: Appeal filed under Order XLI Rule 1 and Section 96 C.P.C., against the final decree passed in O.S.No. 503 of 1999 dated 24.06.2003 by the learned Subordinate Judge, Gudiyatham.

For 1st & 2nd Appellant: Mr. T.M.Hariharan

For RR 9 to 14 : Mr.V.Perumal for
Mr.T.Dhanyakumar

For RR 1 to 8 : Mr.K.A.Ravindran

For RR 15 to 17 : Mr.S.Vijayakumar

S.A.No. 1067 of 2003

1. Raghurama Pillai (died)

2. G.R.Venkatesan

3. R.Jamuna Rani

4. R.Ravi

5. S.Sathya Vani

6. R.Soundara Rajan

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7. Varalakshmi

8. Kavitha

...Appellants

Vs.

1. Jothiramalingam

2. Yoganathan

3. Thirunaavukkarasu (died issue less)

4. Kausalya

5. Santhi

6. Kaveri

7. Pattabhiraman (died)

8. Kodanda Raman

9. Mohana Sundaram

10. P.Mehanathan

... Respondents

PRAYER: This Second Appeal is filed under Section 100 of Civil Procedure Code, against the Judgment and Decree of the learned Principal District Judge, Vellore, dated 26.09.2002 in A.S.No. 60 of 2001 modifying the Judgment and Decree of the learned Subordinate



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Judge, Gudiyattam, dated 20.11.2002 in I.A.No. 274 of 1999 in
O.S.No. 503 of 1999.

For 2nd Appellant : Mr. T.M.Hariharan
For Appellants 3 to 8 : Mr.V.Perumal
for Mr.T.Dhanyakumar
For RR 1 to 6 : Mr.K.A.Ravindran
For RR 8 to 10 : Mr. S.Vijayakumar

Cont.P.No. 1197 of 2009

G.R.Venkatesan

... Petitioner

Vs

1. Jothiramalingam

2. Yoganantham

3. Kaveri

...Respondents

PRAYER: Contempt Petition filed under Section 11 of the Contempt of Court Act, 1971, to punish them for having violated the orders of this Hon'ble Court dated 19.03.2005 in C.M.P.No. 17429 of 2004 in S.A.No. 1069 of 2003.

For Petitioner : Mr. T.M.Hariharan



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For RR 1 to 3 : Mr.K.A.Ravindran

COMMON JUDGMENT

All the three matters have been directed to be listed as per roster and since the Contempt Petition has been filed in S.A.No. 1067 of 2003, the three matters have been listed before this Court.

2. The Second Appeal and the First Appeal emanate from a suit for partition in O.S.No. 169 of 1977 which was on the file of Sub Court, Vellore. The said suit for partition had been filed by Soodamani Ammal against Raghurama Pillai and Pattabiraman, who are her brothers. As on date, the plaintiff Soodamani Ammal, the first defendant Raghurama Pillai and the second defendant Pattabiraman have all died but their legal representatives are still at lis over the issues which have been raised in the Original Suit, and more particularly in the preliminary decree passed and also in the final decree passed.



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3. It must be mentioned that the said suit progressed and by consent of all the parties, a preliminary decree was passed on 11.03.1980 wherein the properties which were the subject matter of the partition suit were divided. The share of each of the parties determined at 1/3rd each. Questioning the said preliminary decree, A.S.No. 60 of 2001 was filed before the District Court at Vellore by the first defendant Raghurama Pillai. The First Appeal was dismissed by Judgment dated 26.09.2002. Questioning the said Judgment dismissing A.S.No. 60 of 2001 Raghurama Pillai, the first defendant filed S.A.No. 1067 of 2003.

4. In the meanwhile, since final decree also came to be passed, questioning the final decree, Raghurama Pillai had filed A.S.No. 496 of 2011. That appeal was originally filed before the District Court at Vellore with considerable delay. The delay application was transferred to this Court and by consent, the delay was condoned and A.S.No. 496 of 2011 came to be numbered and is also now listed before this Court.



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5. It must also be mentioned that pending the Second Appeal an order of injunction had been granted restraining the respondents therein from dealing with or alienating any of the portions even though they have been allotted shares in the preliminary decree / final decree.

6. It is complained that the plaintiff/legal heirs of the plaintiff had dealt with the front portion of a particular property and questioning such sale deed, Contempt Petition No. 1197 of 2009 has been filed by G.R.Venkatesan, one of the legal heirs of Raghurama Pillai.

7. Heard Mr.T.M.Hariharan, learned counsel appearing on behalf of the first and second appellants in S.A.No. 1067 of 2003 and also in Transferred A.S.No. 496 of 2011 and the petitioner in Contempt Petition No. 1197 of 2009 and Mr.V.Perumal for Mr.T.Dhanyakumar, learned counsel appearing for the appellants 3 to 8 in S.A.No. 1067 of 2003 and Mr.K.A.Ravindran, learned counsel for the 2nd and 3rd respondents in the Second Appeal and in the First Appeal and also for Mr.S.Vijayakumar, learned counsel, who represented for the legal representatives of the deceased second defendant.



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8. I must place on record my deep appreciation for the sanguine manner in which the learned counsels argued the matter. As a matter of fact they were of much assistance to this Court which has enabled disposal of all the three matters, namely, the Second Appeal, the First Appeal and also the Contempt Petition. Much prudence was exercised by the learned counsels.

9. Mr.T.M.Hariharan, learned counsel for the second appellant /Contempt Petitioner had pointed out that the parties are willing to abide by the terms of the final decree in so far as the division of the properties are concerned. The other aspect which has to be now examined is the ovelty to be paid to equalise the value of the properties allotted. It had been pointed out by Mr.T.M.Hariharan, learned counsel that each one, namely, the legal representatives of the plaintiff, of the first defendant and of the second defendant would be entitled to property worth Rs.14,15,000/-. It is also stated that the legal representatives of the plaintiffs have been allotted properties worth Rs.12,77,000/-. The second appellant / one of the legal representative of the first defendant has laid a claim through a registered will to property value of Rs.15,80,500/-. The legal representatives of the second defendant, have received properties to the value of Rs.13,90,000/-.



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10. The parties have agreed to abide with the value of property, namely that each one of the branch of the family would get property worth Rs.14,15,000/-. To that extent, there is an agreement among the parties.

11. Now, arrangement will have to be made to equalise the value by payment of excess value of property received. In this connection, it is pointed out that the legal heirs of the plaintiff had dealt with a particular property, more particularly the front portion of a property, owing to which Contempt Petition has been filed. Therefore, it had also been agreed that the legal heirs of the plaintiff would rest content with the value of the property of Rs.12,77,000/- and would not seek any further equalisation in money terms.

12. This would leave the legal representatives of the second defendant. They had received property worth about Rs.13,90,000/-. This would indicate that they have to be paid a sum of Rs.25,000/-. However, the Second Appellant G.R.Venkatesan, one of the legal representatives of Raghurama Pillai, had come forward to pay an additional sum of Rs.10,000/- which would indicate that he should pay a sum of Rs.35,000/-. This amount may actually be exchanged between the counsels and the



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amount may be paid to Mr.K.A.Ravindran, the learned counsel, who also represented Mr. S.Vijayakumar, the learned counsel for the legal representatives of the second defendant and thereafter, the amounts can be distributed among the parties. The outer limit for payment of the said sum of Rs.35,000/- is on or before 28.07.2022.

13. Mr.G.R.Venkatesan, the second appellant is physically present in Court and it has been explained to him that he will have to pay a sum of Rs.35,000/- on or before 28.07.2022 and he has agreed to do so. The amount will be paid to his counsel Mr.T.M.Hariharan, who will then give it to it Mr.K.A.Ravindran, learned counsel.

14. In view of the fact that the legal representatives of the plaintiff have agreed to give up equalisation of the value of the property, the Contempt Petition stands closed.

15. It is also pointed out that the original first defendant Raghurama Pillai had executed a registered Will with respect to the



properties in favour of G.R.Venkatesan and as among the legal representatives of Raghurama Pillai if ever there is any dispute surrounding the Will, that issue will have to be decided by the legal representatives of the Raghurama Pillai in separate proceedings / suit. The execution of the Will is not a subject matter of the present Second Appeal or of the First Appeal or of the Contempt Petition.

16. In view of the above discussion:-

(i) The Contempt Petition stands closed;

(ii) The Second Appeal is disposed of by payment of Rs.35,000/- by the second appellant G.R.Venkatesan to the legal representatives of Pattabiraman / 2nd defendant by making payment on or before 28.07.2022 through the learned counsel Mr.T.M.Hariharan to Mr.K.A.Ravindran, the learned counsel, who represented also Mr. S.Vijayakumar, the learned counsel for the legal representatives of the second defendant; and



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C.V.KARTHIKEYAN, J.

Vsg

(iii) the First Appeal which has been filed as against the final decree need not be pursued further by this Court and therefore stands, closed in view of the agreement reached among the parties.

17. No costs.

09.06.2022

vsg

Index: Yes/No

Speaking order / Non speaking order

To:

1. Principal District Court, Vellore,

2. Subordinate Court, Gudiyatham.

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

A.S.No. 496 of 2011

And

S.A.No. 1067 of 2003

And

Cont.P.No. 1197 of 2009

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