

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEDNESDAY, THE SIXTH DAY OF APRIL
TWO THOUSAND AND TWENTY TWO

PRESENT:

THE HONOURABLE JUSTICE MR.N.ANAND VENKATESH

Second Appeal No.218 of 2012

1.S.Krishnasami (Died)
...Appellant / 1st Appellant / 1st Defendant

2.Samundeeswari

3.Kasthuri

.Vs.

1.R.Marappan
...Plaintiff / Respondent / Respondent

2.K.Rajamani (died)

3.K.Kamaraj (died)

4.Priyadharshini

5.Minor Shanmugharaja
(Minor is presented by their next friend
mother Tmt.K.Vijayalakshmi)

6.K.Vijayalakshmi
..Respondents / Appellants / Defendants 2 to 6

(Appellants 2 and 3 brought on record and
RR2 to 6 are recorded as LRS of the deceased
sole appellant viz., S.Krishnasamy vide order of
Court dt.18.02.2020 made in CMP No.16723 of 2019
in S.A.No.218 of 2012)

Prayer:Appeal against the Judgment and Decree of the Principal
District Judge, Namakkal, dated 23.08.2011 in A.S.No.63 of 2011,
confirm the Decree and Judgment of the Court of the Sub Court,
Namakkal dated 29.07.2010 in O.S.No.651/2003.

Decree:This Second Appeal coming on for hearing on Monday, the
Fourth Day of April, Two Thousand and Twenty Two (i.e.
04.04.2022) upon perusing the grounds of appeal, the judgment

and decrees of the Lower Appellate Court and the Court of first instance and the material papers in the suit and upon hearing the arguments of Mr.A.Thiyagarajan, Advocate for the Appellant, and of Mr.T.L.Thirumalaisamy, Advocate for the 1st Respondent, through notice was served on the Respondents 2,4 to 6 none appeared either in person or through Counsel and third Respondent is died, steps not having been taken to bring the LRs of the deceased according to law and having stood over for the consideration till this day, this Court while allowing the Second Appeal, doth order and decree as follows:-

1.That the Judgment and Decree of the Lower appellate Court made in A.S.No.63 of 2011, dated 23.08.2011 be and hereby is set aside and the appeal is remanded back to the file of the Lower Appellate Court;

2.That the Lower Appellate Court do restore the appeal to its original number in the register and proceed to dispose of the case in the light of the observation and direction contained in the judgment;

3.That the Principal District Judge, Namakkal be and hereby is directed to hear the appeal afresh by affording opportunity to both the sides and consider every ground raised on fact and law and assign reasons after framing the points for consideration;

4. That the final Judgment shall be delivered in the appeal on or before 15.07.2022 and the compliance shall be reported to this Court;

5.That there be no order as to costs in this appeal;

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

KP

To

1. The Principal District Judge,
Namakkal.
2. The Subordinate Judge,
Namakkal.

Copy to

The Section Officer
V.R.Section
High Court, Madras.

+lcc to Mr.T.L.Thirumalaisamy, Advocate, S.R.No.23958

+lcc to Mr.A.Thiyagarajan, Advocate, S.R.No.23453

DATED : 06.04.2022

DECREE

Second Appeal No.218 of 2012

Allowing the Second Appeal is preferred against the Judgment and Decree passed in A.S.No.63 of 2011, on the file of the Principal District Judge, Namakkal, dated 23.08.2011 confirm the Decree and Judgment passed in O.S.No.651/2003 on the file of Sub Court, Namakkal dated 29.07.2010, etc. as stated within.

VBM[co]
NSK/10/06/2022