



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT, MADURAI
(Civil Appellate Jurisdiction)

Wednesday, the Sixteenth day of March Two Thousand Twenty Two

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

SA(MD) . No.290 of 2010

1. Malaichamy (Died) ...Appellant/Appellant/Plaintiff
2. M.Gnanathilagam
3. M.Ravikumar
4. M.Varun

(Appellants 2 to 4 are brought on record as LRs of the deceased Sole Appellant)

...Appellants/
LRs of the Deceased Appellant/
LRs of the Deceased Plaintiff

Vs

1. Petchimuthu (Died)
2. Sendurpandian
3. Jeyashanmugaraj ...Respondents/Respondents/Defendants
4. P.Rathinapandian
5. P.Vetrivel
6. M.Dhanalakshmi

(1 st Respondent Died and Respondents 4 to 6 are suo motu, impleaded vide Court order dated 17.02.2022).

... Respondents/
LRs of the Deceased 1st Respondent/
LRs of the 1st Defendant

Prayer:-

Appeal filed under Section 100 of C.P.C., against the Judgment and Decree of the Sub Court, Thoothukudi, dated 28.11.2008 made in Appeal Suit No.209 of 2005, confirming the Judgment and Decree of the Court of the District Munsif Court, Srivaikundam made in Original Suit No. 21 of 2004 dated 10.08.2005.

DECREE:-

This Second Appeal coming on for hearing on this day, upon perusing the Grounds of Appeal, the Judgments and Decrees of the Lower Appellate Court and the Court of First Instance and the



Mr.A.P.MUTHUPANDIAN, Advocate for the Appellants and the Respondents 2 to 6 not appeared either in person or by an advocate, this Court while allowing this Appeal, doth order and decree as follows:-

(1) That, the Judgment and Decree of the Sub Court, Thoothukudi, dated 28.11.2008 made in Appeal Suit No.209 of 2005 be and hereby set aside and the matter is remanded to the file of trial Court ie., the District Munsif Court, Srivaikundam.

(2) that, the Appellants herein/Plaintiffs be and hereby directed to appear through counsel before the trial Court ie., the District Munsif Court, Srivaikundam on 25.04.2022 and the Appellants' Counsel gives an undertaking that the Appellants will implead all the necessary parties and make a sincere effort to include in the suit schedule all the properties belonging to the joint family and in other words, the flaw pointed out by the Court below will be set right by filing an amendment petition.

(3) that, the Court below ie., the District Munsif Court, Srivaikundam, shall of course allow the same after due notice to the parties concerned and

(4) That, there be no costs in this Appeal.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

- 1) The Sub Judge, Thoothukudi,
- 2) the District Munsif, Srivaikundam

Copy to:

The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court, Madurai - 2 Copies

+1 CC to Mr.A.P.MUTHU PANDIAN, Advocate (SR-12556)



WEB COPY

SA(MD). No.290 of 2010

ORDER DATED : 16/03/2022

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DECREE

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SA(MD). No.290 of 2010

Nature of Decree:-

Allowing the Second
Appeal preferred against
the judgment and decree
of the the Sub Court,
Thoothukudi, dated
28.11.2008 made in Appeal
Suit No.209 of 2005,
confirming the Judgment
and Decree of the Court
of the District Munsif
Court, Srivaikundam made
in Original Suit No. 21
of 2004 dated 10.08.2005
etc., as stated within.

MGJ(28.03.2022) 3P 6C