



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

Thursday, the Eighth day of September Two Thousand Twenty Two

PRESENT

The Hon`ble Mr.Justice N.SESHASAYEE

SA(MD) . No.357 of 2010

1.Smt.Rajammal (Died)

2.Nagammal

... Appellants/Respondents/
Plaintiffs

**[2nd appellant who is already on record is recorded
as LR of the deceased 1st appellant vide order dated
11.08.2022 made in C.M.P. (MD) No.4960 of 2022 in
S.A. (MD) No.357 of 2010]**

Vs.

1.Vellaichamy

... 1st Respondent/Appellant/
Defendant

2.Sadayandi

3.Muthuchamy

... Respondents 2 and 3/
LRs of deceased 1st appellant

**[Respondents 2 and 3 are brought on record as LRs
of the deceased 1st appellant vide order dated
11.08.2022 in C.M.P. (MD) No.4960 of 2022 in S.A.
(MD) No.357 of 2010]**

Prayer:-

Second Appeal filed under Section 100 of C.P.C., against the judgment and decree dated 20.10.2009 passed in A.S. No.204 of 2004 on the file of the Principal Subordinate Court, Dindigul reversing the Judgment and Decree dated 04.11.2003 passed in O.S. No.283 of 2003 on the file of the First Additional District Munsif, Dindigul.

DECREE:-

This Second Appeal coming on for hearing on this date, upon perusing the grounds of Appeal, the judgments 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.H.LAKSHMI SHANKAR, Advocate for the second Appellant and of Mr.ANTONY ARUL RAJ, Advocate for the first respondent, and the second and third respondent, not appeared either in person or by an Advocate, this Court doth order and decree as follows:-

(1) That the Judgment and Decree dated 20.10.1009 passed in A.S. No.204 of 2004 be and is hereby set aside and the Judgment and Decree dated 04.11.2003 passed in O.S. No.283 of 2003 is modified to



the extent that the second plaintiff would be only entitled to 1/4th share plus 1/3rd of her mother's 1/4th share, she would be entitled to 1/3rd share and the balance 2/3rd share should come to the defendant and the Second Appeal is allowed.

2) That the trial Court be and is hereby directed to initiate **suo moto** final decree proceedings and appoint an advocate commissioner and proceed with the same and pass a final decree and the final decree proceedings shall be completed within a period of six months from the date of copy of this judgment, if for some reason, the trial court omits to do that, the 2nd Plaintiff is required to file a memo before the trial court for the said purpose.

(3) That there be no costs in this Appeal.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/11/2022

Sub Assistant Registrar(CS)

Encl: Copy of Schedule of Property

To

- 1) The Principal Subordinate Judge, Dindigul
- 2) The First Additional District Munsif, Dindigul.

Copy to:

The Section Officer,
V.R. Section,

Madurai Bench of Madras High Court, Madurai - 2 Copies

+1 CC to M/s.H.LAKSHMI SHANKAR, Advocate (SR-44133 dated 09/09/2022)

ORDER DATED : 08/09/2022

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DECREE

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SA(MD). No.357 of 2010

Nature of Decree:- Allowing the Second Appeal preferred against the judgment and decree dated 20.10.2009 passed in A.S. No.204 of 2004 by the Principal Subordinate Court, Dindigul reversing the Judgement and Decree dated 04.11.2003 passed in O.S. No.283 of 2003 on the file of the First Additional District Munsif, Dindigul, etc., as stated within.

AMS (03.11.2022) 2P 6C

<https://www.mhc.tn.gov.in/judis>