



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

S.A. (MD)Nos.5 & 6 of 2010

S.A. (MD)No.5 of 2010

Maalai Thevar (Died)

1. Sudalaikannu

2. Muthu ... Appellants / Appellants 2 and 3/
Defendants 2 and 3

Vs.

P.S.B.K.Peer Mohamadhu (Died)

... Respondent / Respondent /
Plaintiff

2. Jaffer Mohameed Kaseem Peer

3. Syed Nisha Beema

(R-2 & R-3 were suo motu impleaded as LRs. of the
deceased sole respondent vide order dated 17.02.2022
made in S.A. (MD)No.5 of 2010)

... Respondents 2 and 3

Prayer: Second appeal filed under Section 100 of C.P.C., to
set aside the Judgment and Decree passed in A.S.No.31 of 2008 on the
file of the Principal Sub Court, Tirunelveli, dated 10.07.2009
confirming the Judgment and Decree in O.S.No.853 of 2004 on the file
of the Principal District Munsif Court, Tirunelveli, dated
04.04.2008.

S.A. (MD)No.6 of 2010

Maalai Thevar (Died)

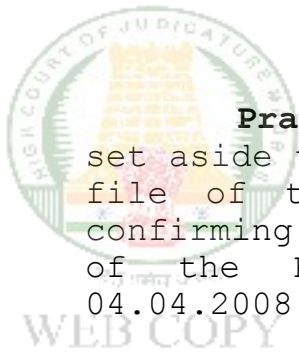
1. Sudalaikannu

2. Muthu ... Appellants / Appellants 2 and 3/
Defendants 2 and 3

Vs.

Mohamedhu Abdul Kaaja

... Respondent / Respondent /
Plaintiff



Prayer: Second appeal filed under Section 100 of C.P.C., to set aside the Judgment and Decree passed in A.S.No.33 of 2008 on the file of the Principal Sub Court, Tirunelveli, dated 10.07.2009 confirming the Judgment and Decree in O.S.No.851 of 2004 on the file of the Principal District Munsif Court, Tirunelveli, dated 04.04.2008.

(in both S.As.)

For Appellants : Mr.R.T.Arivukumar,
for Mr.S.Yasar Arafath.

For Respondents : Mr.M.P.Senthil

C O M M O N J U D G M E N T

These two second appeals arise out of O.S.No.851 of 2004 and O.S.No.853 of 2004 on the file of the Principal District Munsif, Tirunelveli.

2. While the plaintiffs in the suits are different, the defendants in both the suits are one and the same. The suits were filed for redemption of mortgage and for recovery of possession. The suit were valued and Court fees were paid under Sections 30, 33 and 44 of the Tamil Nadu Court-Fees And Suits Valuation Act.

3. The plaintiffs examined themselves as witnesses and mortgage deeds were also marked. The Courts below have concurrently found that the plaintiffs have title over the suit property and held that the plaintiffs are entitled not only to redeem the suit mortgages but also to obtain recovery of possession. Against the concurrent findings rendered by the Courts below, these second appeals have been filed.

4. Though they have been filed way back in the year 2009, they have not been admitted till date. I do not find any substantial question of law arising for consideration. These second appeals are dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

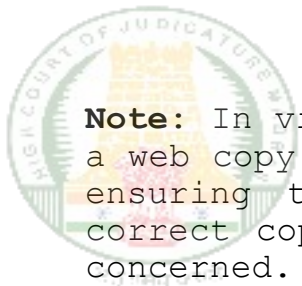
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/ /2022

Sub Assistant Registrar(CS)

PMU

<https://hcservices.ecourts.gov.in/hcservices/>



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

WEB COPY

To:

1. The Principal Sub Judge,
Tirunelveli.
2. The Principal District Munsif,
Tirunelveli.

Copy to

The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+2 CC to M/s.M.P. SENTHIL, Advocate (SR-16827,16828[F] dated
06/04/2022)

+1 CC to M/s.S. YASARARAFATH, Advocate (SR-16858[F] dated
06/04/2022)

S.A. (MD) Nos.5 & 6 of 2010
05.04.2022

RK(12/05/2022) 3P 8C