



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED:01.06.2022**

**CORAM:**

**THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**S.A(MD)No.144 of 2012**

**and**

**M.P. (MD) .Nos.1 and 2 of 2012**

**and**

**C.M.P (MD)No.4536 of 2022**

1.M.Abdul Aziz (Died)

2.M.Mohamed Yusuf

... Appellants/  
Appellants/Defendants

3.Nilofer Nisha

4.Mohammed Suhail

5.Minor.Afrahzabeen

... appellants

(Minor 5<sup>th</sup> appellant is represented by her mother and natural guardian, the 3<sup>rd</sup> appellant herein)

(Appellants 3 to 5 are brought on record as the legal heirs of the 1<sup>st</sup> appellant vide order dated 01.06.2022 in C.M.P (MD)No.4535 of 2022.)

vs.

M.Sheik Abdul Khader

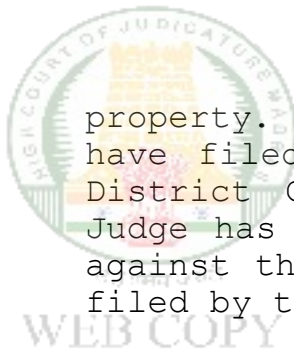
... Respondent/  
Respondent/Plaintiff

**PRAYER:** Second Appeal is filed under Section 100 of Civil Procedure Code against the judgment and decree of the lower appellate Court dated 15.12.2011 made in A.S.No.16 of 2011 on the file of Additional District Judge, Fast Track Court, Dindigul, confirming the judgment and decree of the trial Court dated 31.01.2011 made in O.S.No.178 of 2007 on the file of the Additional Subordinate Judge, Dindigul.

|                |   |                                            |
|----------------|---|--------------------------------------------|
| For Appellants | : | Mr.P.Vinoth<br>for Mr.R.Subramanian        |
| For Respondent | : | Mr.George Raja<br>for M/s.Ajmal Associates |

**JUDGMENT**

The respondent in the second appeal had filed a suit in O.S.No.178 of 2007 before the Additional Sub-Court, Dindigul for the relief of partition claiming 1/3<sup>rd</sup> share in the suit schedule



property. The suit was decreed by the trial Court. The defendants have filed an appeal in A.S.No.16 of 2011 before the Additional District Court/Fast Track Court, Dindigul. The learned appellate Judge has confirmed the judgment and decree of the trial Court. As against the concurrent findings, the present second appeal has been filed by the defendants.

2. Pending second appeal, the first appellant had passed away and his legal heirs have been brought on record. Thereafter, at the intervention of the elders and mediators, the parties have arrived at a settlement and have filed a joint compromise memo, dated 31.05.2022.

3. As per the said compromise memo, the plaintiff has admitted the title of the defendants and has chosen to withdraw the suit for partition filed by him. The plaintiff wants to erase the decree passed by the Courts below and would like to withdraw the present second appeal, as per the terms of the joint compromise memo. The parties have appeared in person and their appearance is recorded.

4. One of the impleaded appellants is a minor being represented by her mother and natural guardian. From the compromise memo and the proceedings of the Courts below, I find that the compromise is being entered into, in which the title of the minor is being protected. The learned counsel for the appellants has also filed an affidavit to the effect that the present compromise is for the benefit of the minor.

5. Hence, the joint memo of compromise filed by both the parties is taken on file. There shall be a decree in terms of the said compromise memo. The Second Appeal is disposed of, on the above said terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

akv/gbg

To

1.The Additional District Judge,  
Fast Track Court,  
Dindigul.



2.The Additional Subordinate Judge,  
Dindigul.

Copy to:

WEB COPY  
The Record Keeper,  
V.R Section,  
Madurai Bench of Madras High Court,  
Madurai.

+1 CC to M/s.R. SUBRAMANIAN, Advocate( SR-24226[F] dated  
01/06/2022 )

**S.A(MD) No.144 of 2012**  
**01.06.2022**

MGJ(27.06.2022) 3P 6C