



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

Friday, the Twenty Fifth day of November Two Thousand Twenty Two

PRESENT

The Hon`ble Mr.Justice N.SESHASAYEE

SA(MD) . No.947 of 2005

- 1 JOHN VASEEKARAN, (DIED)
SOLE APPELANT DIED MEMO RECORDED VIDE USR NO.
994/16 DT.23.2.16 VIDE COURT ODR. DT.25.4.16
MADE IN SA(MD)947/05 BY RMDJ ... Appellant / Respondent /
Defendant
- 2 JAYARANI, W/O.JOHN VASEEKARAN,
- 3 JENITHA, W/O.SELVARAJ,
NO.52, 53, KAMARAJ SALAI, NEHRU NAGAR,
RAMAPURAM, CHENNAI
- 4 RATHISH, S/O.JOHN VASEEKARAN,
AA 2, 4 & 5 ARE RESIDING AT, NO.3/159,
CHURCH ST, MUKADUR, SATHANKULAM, TUTICORIN
- 5 ANANTH EUGIN, S/O.JOHN
VASEEKARAN, APPLNTS 2 TO 5 ARE BROUGHT ON
RECORD AS LRS OF DECED SOLE APPLNT, VIDE
COURT ORDER DT.23.02.17 IN CMP(MD)1707 TO
1710/17 BY TKRJ ... LR's of the Appellant

Vs

- 1 MOHANDOSS (DIED) ... Respondent / Appellant /
Plaintiff
- 2 VIMALA,
W/O. LATE. MOHANDOSS, NO.4/70 VIJAYANAGAR,
UDUMALAI ROAD, CHINNAMPALAYAM, MAKKINAMPATTI
POST, POLLACHI- 642 003, COIMBATORE DISTRICT.
- 3 SUDHAKAR,
S/O. LATE. MOHANDOSS NO.40 VIJAYANAGAR,
UDUMALAI ROAD, CHINNAMPALAYAM MAKKINAMPATTI
POST, POLLACHI, COIMBATORE DISTRICT.
- 4 SUJATHA,
W/O.DEVA SAHAYAM, NO.8/438, COOPERATIVE
COLONY VALPARAI, COIMBATORE DISTRICT.



5 SURESH,
S/O.LATE.MOHANDOSS, NO.4/70 VIJAYANAGAR
UDUMALAI ROAD, CHINNAMPALAYAM, MAKKINAMPATTI
POST, POLLACHI- 642 003, COIMBATORE DISTRICT.

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6 SUSEEGARAN,
S/O.LATE. MOHANDOSS, NO.18/43, F-2 THILAGA
PARADISE, NO.515, CIRCULAR ROAD, JAWAHAR
NAGAR, RAJINI RAJA TEMPLE, PERAMBUR, CHENNAI-
82. ... LRs of the 1st Respondent
(Respondents 2 to 6 are brought on record as LRs
of the deceased sole respondent vide court
order dt.30.09.2022 made in CMP (MD) No.10688
& 10639 of 2017)

Prayer:-

Second Appeal filed under Section 100 of C.P.C., against the judgment and decree dated 18.02.2005 made in A.S. No.125 of 2004 on the file of the Subordinate Court, Tuticorin reversing the Judgment and decree of the District Munsif Court, Sathankulam in O.S. No.2 of 2004 dated 23.6.2004.

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.MICHAEL SEBASTAIN for Mr.G.XAVIER, Advocate for the Appellants and of Mr.M.P.SENTHIL, Advocate for the respondents, while disposing the Second Appeal the Court imposed cost to the Appellant for Rs.25,000/- (Rupees Twenty five thousand only) and subsequently the case was posted under for reporting compliance on 01.12.2022, the Appellant paid the cost of Rs.25,000/- vide cost Memo in USR No.34550 dated 01.12.2022 before this registry, and this Court doth order and decree as follows:-

(1) That the judgment and decree dated 18.02.2005 made in A.S. No.125 of 2004 on the file of the Subordinate Court, Tuticorin reversing the Judgment and decree of the District Munsif Court, Sathankulam in O.S. No.2 of 2004 dated 23.6.2004 is modified and the Second Appeal is partly Allowed.

(2) That the defendant no right of pathway is provided to the defendant either in Ex. B1 or in Ex.B2, the defendant cannot claim any right of pathway over the property of the Plaintiff.

(3) That the Judgment and Decree of the first appellate court passed a preliminary decree is modified for demarcation of the suit property in terms of Ex. B1 and Ex. B2.



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

Sd/-

Assistant Registrar (CS II)

// True Copy //

/04/2023

Sub Assistant Registrar(CS)

Encl: Xerox copy of Schedule of Property (Including EX B1 & B2).

(*) TO be substituted the order already despatched on 17.02.2023
To

- 1) The Subordinate Judge, Tuticorin
- 2) The District Munsif, Sathankulam.

Copy to:

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

+1 CC to M/s.G.M.XAVIER, Advocate (SR-57466 dated 25/11/2022)

+1 CC to M/s.M.P.Senthil, Advocate (vide letter dt.21.03.23)

ORDER DATED : 25/11/2022

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CORRECTED DECREE

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SA(MD) . No.947 of 2005

Nature of Decree:- Partly Allowing the Second Appeal in part preferred against the judgment and decree dated 18.02.2005 passed in A.S. No.125 of 2004 by the Subordinate Court, Tuticorin reversing the Judgement and Decree dated 23.06.2004 passed in O.S. No.2 of 2004 the First District Munsif, Sathankulam, etc., as stated within.

SI/(26.04.2023) 3P/ 7C