



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

Monday, the Fifth day of December Two Thousand and Twenty Two

PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN
and
The Hon`ble Mr.Justice SUNDER MOHAN

CMP(MD) No.4328 of 2022
IN
AS(MD) No.56 of 2010

S.V.GANDHI

... PETITIONER/PROPOSED 45th
RESPONDENT

Vs

G.SUBBURAJ (DIED)

... 1st APPELLANT IN AS

TAMILSELVAN @ SUBBA REDDY (DIED) ... 2nd APPELLANT IN AS

1. SASIKALA DEVI
2. VALARMATHI DEVI
3. MALARVIZHI DEVI
4. KOTHASELVI
5. LAKSHMI PRABHA
6. T.KAVITHA
7. MINOR.S.T.GURUPRASATH
8. MINOR.S.T.GURUPRASANNA

... RESPONDENTS NO.1 TO 8 /
APPELLANTS 3 TO 10

(MINORS REP.BY THEIR MOTHER AND
GUARDIAN THE 6th RESPONDENT)

RAMACHANDRAN (DIED)

... 1st RESPONDENT IN SA

KOTHAI AMMAL (DIED)

... 2nd RESPONDENT IN SA

9. S.GOVINDARAJULU
- 10.E.SINGAMA REDDY

- 11.THE DEPUTY DIRECTOR OF VETERINARY DEPARTMENT,
5-1-45(UPSTAIRS) MAIN ROAD,
NEERATHAN, T.VADIPATTY P.O AND TALUK,
MADURAI DISTRICT.



12.T.KANDAN

13.R.BHARATHI

14.S.SHANMUGAM

15.V.MUTHUSAMY

16.A.PAULRAJ

17.A.PANDI

18.S.PERUMAL

19.N.ALAGARSAMY REDDIAR

20.M.SINGARA VELU

21.K.KRISHNAN

22.A.VAIRA PILLAI

23.THE MANAGER,
SARVOTHAYA KHATI VASTIRALAYAM,
7-7-32, MAIN ROAD, NEERATHAN,
T.VADIPATTY P.O AND TALUK,
MADURAI DISTRICT.

24.V.DURASAMI ASARI

25.R.VELLAICHAMY

26.P.GOWRI AMMAL

27.M/S.N.SELVAM AND BROTHERS,
O/O.O.K.M.K.NATARAJAN,
CHEKKANLOORANI, THIRUMANGALAM TALUK,
MADURAI DISTRICT.

28.MUTHALIFF

29.KRISHNAN

30.P.SHANMUGAM

31.B.MURALI

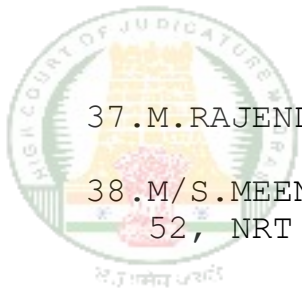
32.S.KALAYANI KONAR

33.V.GOVINDARAJ

34.K.PANDY

35.M/S.PANDIAN RUBBER AND ALLIED INDUSTRIES,
W/4-B7/209, PERIYAKULAM ROAD,
THENI.

36.KOTTAIYAM RUBBER WORK,
74, 75, PERIYAKULAM ROAD, THENI.



37.M.RAJENDRAN

38.M/S.MEENA SWEETS,
52, NRT ROAD, NRT NAGAR, THENI.

39.R.SELVARAJ

40.SEETHARAMAN

41.R.RENGASAMY

42.P.GOVINDAN CHETTIAR

43.R.KARUNANIDHI

44.R.KARUPPIAH SERVAI

45.R.VENKATASAMY REDDIYAR

46.A.AROKIYASAMY

47.BANK OF INDIA,
VADIPATTI BRANCH, MAIN ROAD,
T.VADIPATTY P.O. AND TALUK,
MADURAI DISTRICT.

48.CENTRAL BANK OF INDIA,
VADIPATTI BRANCH, MAIN ROAD,
T.VADIPATTY P.O AND TALUK,
MADURAI DISTRICT.

49.CANARA BANK,
MAIN BRANCH, PANDIYAN HOUSE,
MADURAI TOWN.

50.PAPAMMAL

... RESPONDENTS 6-50 /
RESPONDENTS 3-44

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to implead the petitioner as 45th respondent in the above appeal in A.S(MD).No.56/2010.

PRAYER IN AS(MD) No.56 of 2010 :

To prefer this memorandum of appeal suit against the judgment and decree in O.S.No.437 of 2004 (Originally O.S.No.1001 of 1990 on the file of Sub Court, Madurai then transfer as per Act 1/04 to the Principal District Court, Madurai and then made over to the Fast Track Court, Madurai No.2) dated 29.12.2008.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.R.SURIYA NARAYANAN, Advocate for the petitioner, the court made the following order:-



The suit in O.S.No.437 of 2004 filed for partition between the siblings of K.S.Subba Reddy and K.S.Gurusamy Reddiar, who are the sons of one Kattari Subba Reddiar, came to be disposed of on 29.12.2008. The trial Court, taking note of the compromise petition I.A.No.117 of 1995, held that the said compromise is valid and decree has been passed pursuant to the said compromise petition is valid in the eye of law.

2.The defendants 1 to 3, aggrieved by the judgment and decree passed in O.S.No.437 of 2004, preferred an appeal suit in A.S(MD) No.56 of 2010, before this Court. Pending the said appeal, one Ramachandran, S/o.K.S.Subba Reddy, died and his wife viz., Pappammal, has been brought on record as legal representative of the deceased Ramachandran. While so, one Mr.S.V.Gandhi, has filed this petition to implead himself as one of the respondents in the said appeal on the ground that he is the beneficiary under the Will, that was executed by the said Ramachandran and on the demise of Ramachandran on 06.02.2011, he succeeds over the property mentioned in the Will dated 04.03.2007. Hence, he wants to implead himself as a party to the appeal.

3.This Court, on perusing the affidavit filed in support of the impleading petition, finds that the petitioner viz., S.V.Gandhi, is a third party and he claims to be the beneficiary under the Will alleged to have been executed by the said Ramachandran. While the wife of the said Ramachandran, is being impleaded as 44th respondent in the appeal, who is the sole class I legal heir of Ramachandran. Soon after the demise of Ramachandran, the petitioner herein claims to be the beneficiary under the Will of Ramachandran. Before impleading himself or making any claim in respect of the property left by Ramachandran covered under the alleged Will, the petitioner herein has to approach the competent Civil Court to prove the Will. Without proving the Will, impleading him as a respondent in the appeal is not legally sustainable. While the legal representative had already been impleaded in the appeal, the petitioner, who is a third party if impleaded predetermining the validity of the Will without being proved before the appropriate Court.

4.Therefore, this Court finds no merit in the petition to implead the petitioner as 45th respondent in the appeal. The impleading petition is dismissed with liberty to the petitioner herein to approach the appropriate Court for proving the Will and ascertain his right in respect of the property covered under the Will of late Ramachandran.

sd/-

05/12/2022

/ TRUE COPY /

/12/2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1. THE PRINCIPAL DISTRICT JUDGE,
MADURAI.

2. THE ADDITIONAL DISTRICT JUDGE/
FAST TRACK COURT NO.2, MADURAI.

3. THE SUBORDINATE JUDGE,
MADURAI.

+1 CC to M/s.M.V.VENKATASESHAN, Advocate (SR-14373[I] dated
06/12/2022)

+1 CC to M/s.R.SURIYA NARAYANAN, Advocate (SR-14434[I] dated
07/12/2022)

ORDER

IN

CMP(MD) No.4328 of 2022 AND

AS(MD) No.56 of 2010

Date :05/12/2022

NS

USK/BUC/SAR-I/14.12.2022/5P/6C