



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

Friday, the Seventeenth day of June Two Thousand Twenty Two
PRESENT

The Hon`ble Mrs.Justice R.THARANI

SA(MD) . No.403 of 2016

1 ARULMIGU SWAMI NELLAIYAPPAR
ARULTHARUM GANDHIMATHI AMBAL THIRUKOVIL,
THROUGH ITS EXECUTIVE OFFICER,
TIRUNELVELI TOWN ... Appellant / Appellant / Plaintiff

Vs

1 M.SAMSUDEEN ROWTHER
S/O. MOHAMMED ROWTHER, AWRI LEAFS GODOWN,
MELATHENKALAM, THENKALAM POST, TIRUNELVELI
TALUK, TIRUNELVELI DISTRICT.

2 SHEIK ABDUL KHADAR
S/O. SAMSUDEEN ROWTHER, AWRI LEAFS GODOWN,
MELATHENKALAM, THENKALAM POST, TIRUNELVELI
TALUK, TIRUNELVELI DISTRICT.

3 PAKIR MOHAMMED
S/O. SAMSUDEEN ROWTHER, AWRI LEAFS GODOWN,
MELATHENKALAM, THENKALAM POST, TIRUNELVELI
TALUK, TIRUNELVELI DISTRICT.

4 YOUSUF
S/O. SAMSUDEEN ROWTHER, AWRI LEAFS GODOWN,
MELATHENKALAM, THENKALAM POST, TIRUNELVELI
TALUK, TIRUNELVELI DISTRICT.

5 MOHAMMED HANIBA
S/O. SAMSUDEEN ROWTHER, AWRI LEAFS GODOWN,
MELATHENKALAM, THENKALAM POST, TIRUNELVELI
TALUK,
TIRUNELVELI DISTRICT ... Respondents / Respondents / Defendants

Prayer:-

Second Appeal filed under Section 100 of C.P.C., against the judgment and decree of the Principal Subordinate Court, Tirunelveli made in A.S. No.45 of 2007 dated 30/12/2008 confirming the Judgment and Decree of the trial court dated 08.12.2005 made in O.S. No.305 of 2002 on the file of the Principal District Munsif, Tirunelveli.



DECREE:-

This Second Appeal coming on for hearing on Tuesday, the fifteenth day of March Two thousand and twenty two, 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.MUTHU GEETHAIYAN for Mr.M.Muruga Prabhu, Advocate for the Appellant and of Mr.M.P.SENTHIL, Advocate for the 1st to 4th respondents and fifth respondent not appearing either in person or by an Advocate and this court observing that the respondents herein / defendants already having been paid some amount to the temple, that amount could be treated as the compensation for utilizing that suit property, and having stood over for consideration till this date, and allowing the Second Appeal and this Court doth order and decree as follows:--

(1) That the judgment and decree of the Principal Subordinate Court, Tirunelveli made in A.S. No.45 of 2007 dated 30.12.2008 on the file of the Principal Subordinate Court, Tirunelveli confirming the Judgment and Decree of the trial court dated 08.12.2005 made in O.S. No.305 of 2002 on the file of the Principal District Munsif, Tirunelveli be and hereby are set aside and this Second appeal is Allowed.

(2) That the respondent/defendants be and is hereby directed to hand over the vacant possession of the property to the plaintiff within a period of four months from the date of receipt of a copy of this judgment.

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

Sd/-

Assistant Registrar (CS II)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)

To

1) The Principal Subordinate Judge, Tirunelveli

2) The Principal District Munsif, Tirunelveli



Copy to:

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

+1 CC to M/s.S.P. MAHARAJAN, Advocate (SR-26497 dated 17/06/2022)

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-26489 dated 17/06/2022)

ORDER DATED : 17/06/2022

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DECREE

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SA(MD) . No.403 of 2016

Nature of Decree:- Allowing the Second Appeal preferred against the judgment and decree made in A.S.No.45 of 2007 dated 30.12.2008 on the file of the Principal Subordinate Judge, Tirunelveli confirming the Judgment and Decree passed in O.S. No.305 of 2002 dated 08.12.2005 on the file of the Principal District Munsif, Tirunelveli and etc., as stated within.

SS/07/07/2022/ 3P 7C