



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

Tuesday, the Twenty Sixth day of April Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice R.SUBRAMANIAN
and
The Hon`ble Mr.Justice N.SATHISH KUMAR

CMP(MD) No.12492 of 2018
IN
AS(MD) No.216 of 2017

VALARMATHI

... PETITIONER/1st RESPONDENT

Vs

1 PANDIAN

...1st RESPONDENT/APPELLANT

2 RAJENDRAN
REP BY HIS POWER AGENT
RAMAIYAN

3 MANIMEKALAI

4 KANNAN

5 THIVYA

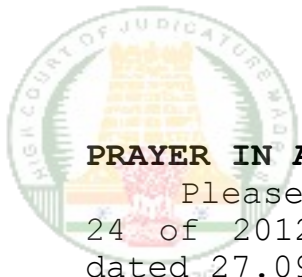
6 MOHAN

7 SELVAPANDIAN

8 RAJAPANDIAN

9 GNANAPRIYA ... RESPONDENTS 2 TO 9/ RESPONDENTS 2 TO 9

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to appoint an advocate receiver to take possession, administer and manage the suit schedule properties and to plug the coconuts from the coconut thopes situated in the suit schedule properties, which are the subject matter in the suit in O.S.No.24 of 2012 on the file of Principal District Judge, Pudukottai and to maintain proper accounts for the income and expenditure from the suit schedule properties and to deposit the net profit to the credit of the suit O.S.No.24 of 2012 on the file of Principal District Judge, Pudukottai pending disposal of the above appeal in A.S(MD).No.216 of



PRAYER IN AS (MD)No. 216 of 2017:

Pleaded to set aside the decree and Judgment passed in O.S.No. 24 of 2012 on the file of Principal District Court, Pudukkottai dated 27.09.2016.

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.N.KRISHNAVENI, Senior Counsel for MR.P.THAGARAJAN, Advocate for the petitioner and of MR.S.MEENAKSHISUNDARAM, Senior Counsel for MR.A.MOHAMMED HANEEF, Advocate for the 1st Respondent and of MR.M.R.SREENIVASAN, Advocate for 2nd respondent, the court made the following order:-

The petitioner seeks appointment of receiver for the properties, which are subject matter of the appeal in A.S.(MD)No.216 of 2017.

2.The appeal emanates out of the suit in O.S.No.24 of 2012 on the file of learned Principal District Judge, Pudukkottai, which one for partition. A preliminary decree has been passed, declaring that the plaintiff / petitioner is entitled for 1/5th share in the suit properties. The first defendant is on appeal, primarily contending the suit is bad for partial partition. The trial Court had recorded a finding that the defendant has not proved that the properties, which he claims to be family properties, actually belong to the family. The said finding will have to be tested at the time of hearing of the appeal.

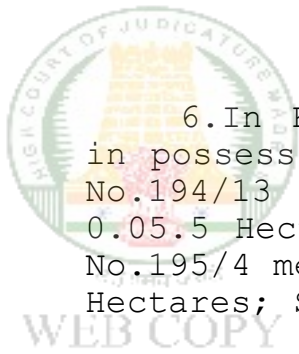
3.Opposing the application for appointment of receiver, Mr.S.Meenakshisundaram, learned Senior Counsel for the appellant / first respondent in the application would submit that the plaintiff is in possession of nearly 2 acres 22 cents of income yielding lands apart from a few housing plots out of the total extent of 12.5 acres. The plaintiff has been favoured with the decree for partition of 1/5th share. The properties as of now in possession of the plaintiff are almost equivalent to his 1/5th share. Therefore, we do not see any reason to appoint receiver.

4.We record the statement of Mr. S.Meenakshisundaram, learned Senior Counsel for the first respondent / appellant that the plaintiff is in possession of the following properties:-

In kothamangalam South Village in

- (i)Survey No.163/3B measuring 0.01.50 Hectares;
- (ii)Survey No.163/4 measuring 0.10.00 hectares;
- (ii)Survey No.163/3 measuring 0.14.00 hectares;
- (iv)Survey No.163/11A measuring 0.15.00 hectares;
- (v) Survey No.163/3A measuring 0.05.11 hectares.

5.All the above are admittedly house sites, yielding no income.



6.In Kothamangalam North Village, the plaintiff is admittedly in possession of Survey No.194/15 measuring 0.9.00 Hectares; Survey No.194/13 measuring 007.5 Hectares; Survey No.194/14 measuring 0.05.5 Hectares; Survey No.194/17 measuring 0.11.0 Hectares; Survey No.195/4 measuring 0.18.0 Hectares; Survey No.159/6E measuring 0.8.5 Hectares; Survey No.159/6D measuring 0.6.5 Hectares.

7.According to the learned Senior Counsel for the 1st respondent / appellant, the land situated in Kothamangalam Village are coconut thopes. Since the possession of these properties with the plaintiff is admitted, the 1st respondent / appellant shall not disturb the plaintiff's possession of these properties. The petitioner / 1st respondent shall also not disturb the possession of of the remaining properties of the 1st respondent / appellant. The parties can also launch appropriate proceedings for determination of mean properties.

8.In the result, this Civil Miscellaneous Petition is dismissed.

sd/-
26/04/2022

/ TRUE COPY /

/ /2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

ENCL: XEROX COPY OF THE SCHEUDULE OF PROPERTY

TO

THE PRINCIPAL DISTRICT JUDGE,
PUDUKKOTTAI.

+1 CC to M/s.P.THIYAGARAJAN, Advocate (SR-3829[I] dated 26/04/2022)

ORDER
IN
CMP (MD) No.12492 of 2018
IN
AS (MD) No.216 of 2017
Date :26/04/2022

Myr
PKP/SVR/SAR-1/28.04.2022/3P/3C