



S.A.No.33 of 1999

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.11.2022

CORAM: JUSTICE N.SESHASAYEE

S.A.No.33 of 1999

1. Chinnaswamy (Died) Appellant/Appellant/Plaintiff
(Memo USR – 6110 of 2018 is recorded as
per order dated 20.12.2013 in CMP(MD)
Nos.11816 to 11818 of 2018 by TKJ)
2. Baby Saroja
3. Muthu Krishnan
4. Seetharaman
5. Venkatraman .. Appellants 2 to 5/LRs of the sole appellant
(A2 to A5 were brought on record as LRs
of the deceased first appellant as per order
dated 22.01.2019 in C.M.P(MD)Nos.
11816 to 11818 of 2018 by TKJ)

Vs.

1. Rukmani Ammal (Died)
2. Balammal
3. Nachiar Ammal (Died) ... Respondents/Respondents/Defendants
(Memo presented before the court on
31.03.2022 is recorded as the third respondent
died Vide Court order dated 31.03.2022 made
in SA.No.33 of 1999 by RTJ)
4. Muthusamy
5. Karthikeyan
6. Sitalakshmi ... Respondents 4 to 6/LRs of R1
(R4 to R6 were brought on record as the LRs of the
deceased first respondent Vide Court order dated
10.03.2022 made in CMP(MD)No.2040 of 2022 in
SA.No.33 of 1999 by BPJ)

Prayer: Second Appeal is filed under Section 100 of Code of Civil
Procedure, against the judgment and decree dated 31.08.1998 in A.S.No.148



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of 1996 on the file of the Principal Subordinate Judge, Tirunelveli, confirming the judgment and decree dated 11.03.1996 in O.S.No.819 of 1989 on the file of the District Munsif, Tirunelveli.

For Appellants : Mr.P.Thiagarajan

For R4 to R6 : Mr.M.Babu Rajendran

J U D G M E N T

The plaintiff, who successively lost before the trial Court and also before the First Appellate Court in his suit for prohibitory injunction, is the appellant herein.

2.1 The suit properties originally belonged to a certain Muthuswamy Naidu. He passed away sometime in 1971 leaving behind him surviving his widow, Seethalakshmi Ammal and nine children. Of the nine children, five are his sons and the rests are his daughters. Muthuswamy Naidu died intestate and his interest in the suit properties devolved equally on all his heirs. While so, Lakshmanan one of his sons died sometime in 1983 and his wife is the first defendant herein.



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2.2 Be that as it may, on 02.07.1980, Lakshmanan had relinquished his interest in the suit properties under Ext.A1-release deed in favour of his brother namely, Krishnaswamy Naidu, the second defendant herein, in lieu of Rs.5,000/- towards the value of his share. One of the sons of Muthuswamy Naidu was Chinnaswamy and he was running some business in the ground floor portion of the suit property. While so, Rukumani Ammal who is the widow of Lakshmanan (the executor of Ext.A1) is stated to have interfered with the business of the plaintiff and hence, he laid the suit.

3. The suit was contested by Rukumani Ammal alone.

4. Now it is stated that the plaintiff's branch had purchased the entire shares of their co-sharers. Rukumani Ammal, the first defendant alone had 1/72 shares as of today which devolved on her heirs namely, the respondents 4 to 6 herein. Today, the parties had filed a compromise memo dated 28.11.2022, duly signed by them and also by their respective counsels, in terms of which the appellants have agreed to purchase the share of the respondents 4 to 6.



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5. This Court is satisfied with the legality of the compromise memo and the same is hereby recorded. A decree is directed to be drafted in terms of the compromise memo. The compromise memo shall form part of the decree.

6. The Registry is required to satisfy that the court fee is adequately paid to cover the compromise and if not, it is required to raise a check slip on the appellants and to draft the decree only after confirming deficit court fee, if any, need to be paid by the appellants.

7. In fine, this Second Appeal is disposed of. No costs.

28.11.2022

Index : Yes/No

Internet: Yes/No

CM

To,

1.The Principal Subordinate Judge, Tirunelveli

2.The District Munsif, Tirunelveli.

3.The Section Officer, VR Section,

Madurai Bench of Madras High Court,

Madurai.



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