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S.A. No. 787 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2023

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

S.A. No.787 of 2008

and

M.P. No. 1 of 2008

1. T.S.Balagurusamy Odayar

T.S.Rajagopalan (deceased)

3. Swaminathan

(3rd appellant brought on record as

LR of deceased 2nd appellant

viz., T.S.Rajagopalan vide Court order
dated 21.07.2023 made in C.M.P.

Nos.14177 and 14173 of 2023)

... Appellants

Versus

1. V.Ramadurai (deceased)

2. S.Sethuraman

3. S.Chinnamal

4. T.S.Rajagopalan

5. A.R.Senbagalakshmi

6. S.Meenatchi

7. S.Visalatchi

8. Mrs.V.Meenalochani

9. Mrs. Shyamala K. Lakshmanan

(R8 & R9 brought on record as LR of
deceased 1st respondent vide memo
submitted on 21.07.2023)

... Respondents



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Prayer:- Second Appeal has been filed under Section 100 C.P.C., against the judgment and decree dated 11.03.2008 made in A.S.No.34 of 2007 on the file of Sub-Court, Mannargudi confirming the judgment and decree dated 26.10.2007 made in O.S.No.143 of 1999 on the file of the District Munsif Court, Mannargudi.

For Appellants : Mr.V.G.Suresh Kumar

For Respondents : R1 – died

Mr.M.Venkatakrishnan for R2

Mr.M.Simon Jayakumar for R4

R3, R5 to R7 – No appearance

JUDGEMENT

Today, when the matter taken up for hearing, the learned counsel for respondents filed a memo stating that pending appeal, the 1st respondent died intestate on 02.09.2019 and he has no objection to continue the proceedings without impleading legal heirs, since the school management is pertaining to male issues of the family. Memo is recorded. Registry is



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directed to carry out necessary amendment with regard to 2nd appellant as well as 1st respondent.

2. The defendants 3 to 7 have contested before the trial court, but their claim was not accepted. Against which, they have not preferred any appeal till date. As per the concurrent findings of the courts below, the suit decreed in favour of plaintiff. Against which, the defendants 2 and 3 have preferred this Second Appeal. During the pendency of appeal proceedings, the 2nd appellant died and his legal heir was impleaded as third party. So also, the 1st respondent died, but as per the Memorandum of Understanding, only male members alone directed to maintain the affairs and management of the school. So, the legal heirs are not necessary to the proceedings and they were given up. To that effect, a memo was filed by the plaintiffs counsel and the same is recorded. Now, the compromise arrived between the 1st and 3rd appellant and the 2nd respondent. All the parties have appeared along with their counsel and agreed to the terms of Joint Memorandum of Compromise, which is extracted hereunder :-

“I. The family of late T.S.Swaminatha Odayar holds 11/30 shares and the family of late S.Ramadurai Iyer holds the



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balance 19/30 shares in the property of the National Primary School Mr. T.R.Swaminathan, the 3rd appellant herein and Mr.S.Sethuraman, the 2nd respondent herein, represent their respective families.

II. Both the parties mutually agree to start the cycle of management (Automatic Turn Management) from the date 29.05.2022. It is also mutually agreed between the parties that Mr.R.Viswanathan, the eldest male member in the family of late S.Ramadurai Iyer will hold the post of Secretary and Correspondent till 28.05.2025. Mr.T.R.Swaminthan, the 3rd appellant herein, the member and representative of the family of late T.S.Swaminatha Odayar will start his cycle of administration from 29.05.2025 and the same will be for a period of three years.

III. Likewise, the automatic turn cycle of management shall be continued by and with the legal representatives of the two respective families, as agreed upon mutually.



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IV. In case, the eldest lineal male member in the family of Ramadurai Iyer is incapacitated or is unwilling to act, the next in seniority or any member nominated from and by the Iyer family will administer during the term of their management.

V. Both the parties hereby mutually consent for disposing the second appeal on the above terms.”

3. In view of the submissions made by both the learned counsel appearing for 1st and 3rd appellant and the 1st respondent and on considering the fact that the matter is settled in terms of aforesaid joint compromise memo, this Second Appeal is disposed of. Joint Memorandum of Compromise received from the 1st and 3rd appellant and the 1st respondent shall form part and parcel of this judgment. No costs. Consequently, the connected Miscellaneous Petition is closed.

21.07.2023

rpp

To

Sub-Judge,
Mannargudi.

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T.V.THAMILSELVI, J.

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**21.07.2023
(2/2)**