



C.M.A(MD)No.56 of 2010

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **31.03.2023**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.56 of 2010

- 1.Pitchammal
- 2.Parvathy Pappa
- 3.Subbiah
- 4.Muthiah
- 5.Ponnusamy
- 6.Kumaresan
- 7.Rajendran
- 8.Ravichandran
- 9.Jeyakumar
- 10.Avudainayagam

... Appellants/
Respondent Nos.7 to 9,12,15 to 20/
Defendant Nos.8 to 10,14,17 to 22

Vs.

- 1.Ganapathy
- 2.Subbulakshmi

... Respondent/Appellant/Plaintiff



C.M.A(MD)No.56 of 2010

3.Sundari Devi

4.Alli Pappa @ Valakumari

5.Saravanan

6.Mahesh @ Mariappan

7.Paldurai

8.Perumal

9.Perumal

10.Chandra

11.Kanagamani

... Respondents/

Respondent Nos.1 to 6,10,11,13,14/

Defendant Nos.2 to 7,11,13,15,16

PRAYER: Civil Miscellaneous Appeal is filed under Order 43 Rule 1 (u) of Code of Civil Procedure, to set aside the judgment and decree, dated 24.07.2009 passed in A.S.No.2 of 2009 on the file of 1st Additional Sub Judge, Tirunelveli reversing the judgment and decree, dated 23.10.2008 passed in O.S.No.683 of 2004 on the file of II Additional District Munsif, Tirunelveli.

For Appellants : Mr.David Ganesan

For R1 : Mr.Arjun Varman



C.M.A(MD)No.56 of 2010

JUDGEMENT

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The present appeal has been filed by the defendants 8 to 10, 14, 17 to 22 in a suit for partition, challenging an order of remand passed by the first appellate Court.

2. The respondents herein have filed O.S.No.683 of 1999 before Principal District Munsif Court, Tirunelveli for the relief of partition. The suit was dismissed by the trial Court. As against the same, the plaintiff had filed A.S.No.2 of 2009 before Sub Court, Tirunelveli. The learned Subordinate Judge after considering the matter on merits, had allowed the appeal and remitted the matter back to the trial Court. Challenging the said order, the present appeal has been filed by the defendants.

3. The learned counsel appearing for the 1st respondent submits that despite writing letters, there is no response from his client.

4. The learned counsel appearing for the appellants had placed before this Court that after the order of remand, the trial Court had proceeded with the trial. Since the plaintiff had not appeared, the suit



C.M.A(MD)No.56 of 2010

was dismissed for default on 20.10.2022. Since the suit itself has been dismissed for default, no further orders are called for in the present appeal.

5. Hence, this Civil Miscellaneous Appeal stands closed. No costs.

31.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

- 1.The 1st Additional Sub Judge,
Tirunelveli.
- 2.The II Additional District Munsif,
Tirunelveli.
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A(MD)No.56 of 2010

R.VIJAYAKUMAR ,J.

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Order made in
C.M.A(MD)No.56 of 2010

31.03.2023