



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

Tuesday, the Twentieth day of June Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P.VELMURUGAN

CMP(MD) No.5387 of 2019
and
MP(MD) No.2 of 2009
IN
SA(MD) No.1091 of 2008

CMP(MD) No.5387 of 2019:

RAMASUBRAMANIAN ... Petitioner / Appellant

Vs

1 R.VIVEKANANDAN

2 MUTHAMMAL

3 NAGARAJAN ... Respondents 1 to 3 /
Respondents 1 to 3 in SA

4 N.VEERANAN

5 N.SIVAGURUNATHAN

6 P.RAMAPILLAI ... Respondents 4 to 6 /
Third Parties in MP(MD) No.2 of 2009

7 TAMILSELVI ... 7th Respondent / Third Party

(Respondents 2 & 3 have been given up in the second appeal since they remained exparte in courts below)

MP(MD) No.2 of 2009 IN SA(MD) No.1091 of 2008:

RAMASUBRAMANIAN ... Petitioner / Appellant

Vs

1 R.VIVEKANANDAN

2 MUTHAMMAL



3 NAGARAJAN

... Respondents / Respondent

4 N.VEERANAN

5 N.SIVAGURUNATHAN

6 P.RAMAPILLAI (DIED)

... Respondents / Proposed Parties

7 TAMILSELVI

8 KOWSAIYA

... Respondents

(RR7 AND 8 ARE BRT ON RECORD AS LRS OF DIED R6 VIDE COURT ORDER DATED 21.02.2020 MADE IN CMP(MD).9256 TO 9258/2019 IN MP(MD).2/2009 IN SA(MD). 1091/2008)

(Respondents 2 & 3 have been given up in the second appeal since they remained exparte in courts below)

Prayer in CMP(MD). 5387/ 2019 :

Pleased to implead the 7th respondent herein as 7th respondent in the above second appeal.

Prayer in MP(MD). 2/ 2009 in SA(MD).1091/2008 :

To implead the respondents 4 to 6 herein as respondents 4 to 6 in the above second appeal and pass such further or other order as this Honble court may deem fit in the circumstances of the case and thus render justice.

Prayer in SA(MD) No.1091 of 2008:

To set aside the judgement and decree in O.S.No.146 of 2003 on the file of Principal District Munsif Court, Dindugal dated 15.06.2004 and the judgement and decree in A.S.383 of 2004 on the file of Principal Sub Court, Dindugal dated 24.08.2006 in so far as it is against the appellants herein.

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.VIJAYAKUMARI NATARAJAN, Advocate for the petitioner in both petitions, the court made the following order:-

The learned counsel appearing for the petitioner in C.M.P(MD) No.5387 of 2019 seeks permission of this Court to withdraw the above said Miscellaneous Petition and also made an endorsement to that effect. Therefore, C.M.P(MD)No.5387 of 2019 is dismissed as withdrawn.

2. M.P(MD)No.2 of 2009 was filed to implead the proposed respondents 4 to 6 as respondents 4 to 6 in the appeal. Since the proposed 6th respondent has passed away, his legal representatives are included as respondents 7 and 8 in the petition.



3. The Second Appeal is only to answer the substantial questions of law and the subsequent purchaser of the property has nothing to do with the substantial questions of law already formulated by the Court. The Court is only answerable to the substantial questions of law based on the materials available on record. Therefore, the subsequent purchaser need not be added as party in the appeal. In case, in a suit for partition, if any person purchased the property pending suit, they have to work out their remedy in the manner known to law in the final decree. As far as the Second Appeal is concerned, since it is only to answer the substantial questions of law and the subsequent purchaser is neither a necessary party nor a proper party. Therefore, M.P(MD)No.2 of 2009 is dismissed.

4. List the Second Appeal in the month of August for final disposal.

sd/-
20/06/2023

/ TRUE COPY /

/07/2023

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

MBI

To

1.The Principal Sub Judge,
Dindugal.

2.The Principal District Munsif,
Dindugal.

ORDER
IN
CMP(MD) No.5387 of 2019
and
MP(MD) No.2 of 2009
IN
SA(MD) No.1091 of 2008
Date :20/06/2023

ED/ /SAR- (10/07/2023) 3P 3C