



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Civil Appellate Jurisdiction)

Tuesday, the Seventh day of February Two Thousand Twenty Three

WEB COPY

PRESENT

The Hon`ble Mr.Justice S.SOUNTHAR

CMP(MD) No.6215 of 2022

in

SA. No.1750 of 2002

V.MUTHUSWAMY @ RAJU PILLAI

... Appellant / Respondent
/ Defendant

.Vs.

P.PARAMASIVAM PILLAI (Died)

... Respondent / Appellant /
Plaintiff

2. P.SANTHANAM
3. P.MURUGAN
4. P.ARUMUGAM
5. P.KRISHNAN

(2nd Respondent to 5th Respondent are
brought as LR of the deceased first respondent
vide court order dt.15.12.2022) ... 2nd to 5th Respondents

Prayer in SA(MD) No.1750 of 2002 :-

Second Appeal filed under Section 100 of C.P.C., against the judgment and decree in A.S. No.169 of 1999 dated 08.11.2001 on the file of the Principal District Judge, Madurai by reversing the judgment and decree in O.S. No.205 of 1997 on the file of the District Munsif, Madurai Taluk dated 18.01.1999.

Prayer in CMP(MD) No.6215 of 2022 :

This Civil Miscellaneous Petition filed under order 41 Rule 19 r/w. Sect.151 of CPC is filed to set aside the order passed S.A. No.1750 of 2022 dated 24.11.2021 and restore the second Appeal.

ORDER:- This Miscellaneous Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.K.C.Ramalingam, Advocate for the Petitioner and of Mr.V.Ramakrishnan, Advocate for second to fifth respondents, this Court made the following order:



This Civil Miscellaneous Petition has been filed to set aside the order passed by this Court in SA.No.1750 of 2002 dated 24.11.2021 and restore the same.

2. Having satisfied with the reason assigned in the affidavit filed in support of this petition, this restoration petition is allowed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/03/2023

Sub Assistant Registrar(CS)

RMK

To

To

1) The Principal District Judge, Madurai

2) The District Munsif, Madurai Taluk.

Copy to:

The Section Officer,

V.R. Section,

Madurai Bench of Madras High Court, Madurai - 2 Copies

+1 CC to M/s.K.C.RAMALINGAM, Advocate (SR-6897 dated 08/02/2023)

+1 CC to M/s.V.RAMAKRISHNAN, Advocate (SR-7085 dated 09/02/2023)

ORDER DATED : 07/02/2023

ORDER

CMP(MD) No.6215 of 2022

in

SA. No.1750 of 2002

SI(20.03.2023) 2P/ 7C



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SA. No.1750 of 2002

1 V.MUTHUSWAMY @ RAJU PILLAI ... Appellant / Respondent
/ Defendant

.Vs.

P.PARAMASIVAM PILLAI (Died) ... Respondent / Appellant /
Plaintiff

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Prayer:-

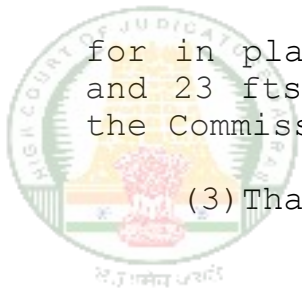
Second Appeal filed under Section 100 of C.P.C., against the judgment and decree in A.S. No.169 of 1999 dated 08.11.2001 on the file of the Principal District Judge, Madurai by restoring the judgment and decree in O.S. No.205 of 1997 on the file of the District Munsif, Madurai Taluk dated 18.01.1999.

DECREE:-

This Second Appeal coming on for hearing on this date, upon perusing the grounds of Appeal, the judgments and decrees of the Lower Appellate Court and the Court of First Instance and the material papers in the Suit and upon hearing the arguments of Mr.K.C.RAMALINGAM, Advocate for the Appellant and of Mr.V.RAMAKRISHNAN, Advocate for the respondents, this Court doth order and decree as follows:-

(1) That the Judgment and Decree in A.S. No.169 of 1999 dated 08.11.2001 on the file of the Principal District Judge, Madurai in sofar as the portion of CEFD in the plaint plan abutting the appellant's northern wall to the extent of 5 inches North-South and 23 fts., East-West is set aside and the Second Appeal is partly allowed.

(2) That the respondent be and is hereby entitled to a declaration, permanent injunction and Mandatory injunction as prayed



for in plaint CEFD portion to the extent of 1.1. ft., No. 23 and 23 fts., East-West, abutting his southern wall. (Xerox of the Commissioner's Plain is annexed)



(3) That there be no order costs in this Appeal.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/03/2023

Sub Assistant Registrar (CS)

RMK

To

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2) The District Munsif, Madurai Taluk.

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ORDER DATED : 07/02/2023

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DECREE

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SA. No.1750 of 2002

Nature of Decree:- Allowing the Second Appeal in part preferred against the judgment and decree dated 08.11.2001 passed in A.S. No.169 of 1999 by the Principal District Court, Madurai confirming the Judgement and Decree dated 18.01.1999 passed in O.S. No.205 of 1997 on the file of the the District Munsif, Madurai Taluk, etc., as stated within.

SI (20.03.2023) 2P/ 7C