



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

Monday, the Third day of April Two Thousand and Twenty Three

WEB COPY

PRESENT:

The Hon`ble Mr.Justice R.VIJAYAKUMAR

CMA(MD)No.367 of 2020

Syed Ameer Ali ... Appellant/Respondent/Plaintiff.

- Vs -

1.E.S.M.Sithi Fathima
Ameer Sadiq (Died)

2.Ammath Saribha

3.Chinnathuneesha

4.Sirajeetha

5.Durrath Pasila

6.Paseera

7.Labeera

8.Abdul Kaseem

9.Fathima

10.Mohammed Saheer

11.Ahammed Jalal

12.Yusuf Hussain

13.Abdul Kadar Poogari

... Respondents/Appellants/Defendants.

Civil Miscellaneous Appeal filed under Order 41 Rule 23 of C.P.C., to call for records and set aside the order of remand in the judgment and decree dated 27/03/2019 passed in the appeal in A.S. No.15 of 2012 on the file of the Principal District Court, Ramanathapuram, setting aside the judgment and decree dated 27/03/2019 in the suit in O.S. No.2 of 2005 on the file of the



Subordinate Court, Ramanathapuram, remanding the suit to the District Court and allow the Appeal.

DECREE:-This Civil Miscellaneous Appeal is coming on for hearing on this date, upon perusing the grounds of Appeal, the judgment and decrees of lower appellate court and the court of first instance and the material papers to the Appeal and upon hearing the arguments of Mr.J.BARATHAN, Advocate for the Appellant and of Mr.D.KIRUBAKARAN, Advocate for the Respondents, 2 to 13 and the 1st respondent not appeared either in person or by Advocate this Court while allowing the appeal, doth order and decree as follows:-

(1) That the matter is remitted back to the file of the Principal District Court, Ramanathapuram, for fresh consideration on merits and in accordance with law based upon the oral and documentary evidence which are already on records;

(2) That there be no order as to costs in this Civil Miscellaneous Appeal.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/06/2023

Sub Assistant Registrar(CS)

To

1.The Principal District Judge,
Ramanathapuram.

2.The Subordinate Judge,
Ramanathapuram.

3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.(2 COPIES)

+1 CC to M/s.Mr.J.Barathan, Advocate (SR-19643[F] dated
05/04/2023)

+1 CC to M/s.D.KIRUBAKARAN, Advocate (SR-19710[F] dated
05/04/2023)



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20

ORDER DATED : 03/04/2023

DECREE

CMA (MD) No.367 of 2020

Allowing the Civil Miscellaneous Appeal filed under Order 41 Rule 23 of C.P.C., to call for records and set aside the order of remand in the judgment and decree dated 27/03/2019 passed in the appeal in A.S. No.15 of 2012 on the file of the Principal District Court, Ramanathapuram, setting aside the judgment and decree dated 29/03/2012 in the suit in O.S.No.2 of 2005 on the file of the Subordinate Court, Ramanathapuram, remanding the suit to the trial Court etc., as stated within.

SI/(12.06.2023) 3P/ 7C