



SA.No.162 of 2001

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

SA.No.162 of 2001 &
C.M.P.No.1686 of 2001

- 1.P.Subramania Pillai
- 2.M.Kumaraswamy Pillai
- 3.P.Madevan Pillai
- 4.A.Krishna Pillai
- 5.Sundaram Pillai @ Mohandass Sundaram (died)

...Appellants

(Appellant No.5 deceased. It is a suit for representative capacity, there is no need for impleading the LRs of Appellant No.5, vide order dated 12.02.2013 in S.A.No.162 of 2001. Memo present in Court dated 12.02.2013 is recorded.)

vs.

- 1.Arulmighu Mutharamman and
Kannivinayagar Koil Trust,
Represented by its Trustees,
Krishnanpudur.
- 2.S.Sivaganam Pillai (died)
- 3.E.Arunachalam Pillai (died)
- 4.C.Subramania Pillai (died)



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5.The Commissioner,
HR & CE Department,
Nungambakkam High Road,
Chennai

6.The Assistant Commissioner,
HR & CE Department,
Mettu Street,
Vadiveeswaram Village,
Agastheeswaram Tk,
K.K.District.

7.P.Padmanabha Pillai (died)

8.S.Chidambara Kuttralam Pillai (died)

9.M.Padmanabha Pillai (died)

10.K.Murugan

11.S.Murugavel Pillai

12.P.Lekshmanan

13.S.Arumugam

... Respondents

(Memo dated 28.03.2022 is recorded as the respondents 2, 3, 7 and 8 died, vide Court order dated 05.01.2023 in S.A.No.162 of 2001)

(Memo dated 27.07.2012 in USR.No.2413 is recorded as the respondents 4 and 9 died, and there is no necessity to bring their LR's on record vide Court order dated 01.08.2012 in S.A.No.162 of 2001)



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(Respondents 10 to 13 are impleaded vide Court order dated 25.04.2022 in C.M.P (MD)No.3461 of 2022 in S.A.No.162 of 2001)

Prayer: Second Appeal filed under Section 100 of the Code of Civil Procedure to set aside the Judgment and Decree dated 21.03.2000 in A.S.No.108 of 1996 on the file of the Additional Subordinate Court, Nagercoil confirming the Judgment and Decree dated 28.03.1996 in O.S.No.985 of 1990 on the file of the Principal District Munsif Court, Nagercoil.

For Appellants 1 to 4 : Mr.Vallinayagam,
Senior Counsel
for Mr.G.Ramanathan

For Respondents : Mr.A.Kannan,
Additional Government Pleader
for R5 & R6
Mr.T.K.S.Manian for R1, R10 to R13

JUDGMENT

The appellants are the defendants 6 to 10 in the suit in O.S.No.985 of 1990 on the file of the Principal District Munsif Court, Nagercoil.



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2. The Trial Court dismissed the suit on 28.03.1996 and the same was confirmed by the I Appellate Court vide Judgment and Decree dated 21.03.2000. Challenging the said Judgment and Decree, the appellants / defendants 6 to 10 have filed the present Second Appeal.

3. The learned counsel appearing for the appellants fairly conceded that as far as substantial questions of law framed by this Court on 11.04.2016 are concerned, there is no quarrel with the decision rendered by both the Courts below. However, he seeks liberty to file a fresh suit to workout the appellants' remedy in the manner known to law.

4. The learned counsel appearing for the fifth respondent has no objection for the same.

5. In view of the above submissions, there arises no necessity for answering the substantial questions of law. Therefore, the Second Appeal is dismissed. However, the appellants are permitted to file a



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fresh suit, if so advised and workout their remedy in the manner known to law. No costs. Consequently, the connected Miscellaneous Petition is closed.

12.06.2023

NCC:Yes/No
Index:Yes/No
Speaking/Non-speaking order

mbi

To

- 1.The Additional Subordinate Court,
Nagercoil
- 2.The Principal District Munsif Court,
Nagercoil.



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P.VELMURUGAN, J.

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