



S.A.No.860 of 1999

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2023

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

S.A.No.860 of 1999

Palaniandi

... Appellant

vs.

- 1.Ramayee (died)
- 2.Meenakshi
- 3.Kaliammal (died)
- 4.Veerapandian
- 5.Velayudham
- 6.R.Nallammal
- 7.M.Muthusami
- 8.Rajalakshmi
- 9.Pushpa Gandhi
- 10.Eswari
- 11.Logammal

respondents 9 to 11 are brought on record
as Lrs of the deceased 1st respondent vide
Court order dated 30.08.2023 made in
C.M.P.(MD).No.11223 to 11225 of 2023 in
S.A.No.860 of 1999.

- 12.Rajathi
- 13.Sundaramoorthy
- 14.Tamilarasi
- 15.Elangovan

respondents 12 to 15 are brought on record
as Lrs of the deceased 3rd respondent vide Court
order dated 30.08.2023 made in C.M.P.(MD).Nos.11228
and 11229 of 2023 in S.A.No.860 of 1999.

... Respondents



S.A.No.860 of 1999

Prayer: Second Appeal is filed under Section 100 of the Code of Civil Procedure, against the judgment and decree of the learned Principal District Judge, Thiruchirapalli, dated 24.07.1998 in A.S.No.155 of 1996 confirming the decree and judgment of the learned Subordinate Judge, Karur, dated 25.03.1996 in O.S.No.123 of 1987.

For Appellant : Mr.P.Valliappan, Senior counsel
for Mr.L.Siva
For R2 : Mr.S.Senthil
For R4 to R6 & R8: Mr.D.Venkatachalam
For R9 to R15 : Mr.S.Boominathan

J U D G M E N T

The second appeal has been filed against the judgment and decree passed by the Principal District Judge, Thiruchirapalli in A.S.No.155 of 1996, dated 24.07.1998, confirming the decree and judgment passed by the Subordinate Judge, Karur in O.S.No.123 of 1987, dated 25.03.1996.

2. While admitting the second appeal, this Court, on 08.09.2000, framed the following substantial questions of law:

(i) Whether the conclusion of the Court below that Ex.B1 sale deed dated 15.11.1984 executed by the 1st defendant was not binding on the plaintiff is correct when the



S.A.No.860 of 1999

1st defendant was the Kartha of the Hindu Joint Family consisting of himself and the plaintiff and he was entitled to alienate the joint family property for legal necessity or for the benefits of the estate in spite of the existence of the plaintiff so long there was no partition in the family?

(ii) Whether the Court below erred in any event not making suitable provisions for the payment plaintiff's share of debts discharged by the 5th defendant?

3. When the matter is taken up for hearing today, the learned counsel appearing for the appellant would submit that he is conceding the judgment and decree passed by the trial Court, which was confirmed by the first appellate Court. In this regard, he has also filed a memo. The said memo is as follows:

Memo filed by the appellant

It is submitted that the Appellant filed the aforesaid appeal challenging the decree and judgment passed in A.S.No. 155 of 1996 on the file of Sub Court, Karur. The 2nd Respondent filed final Decree before the Trial Court and the same is still pending.



S.A.No.860 of 1999

WEB COPY

The Courts below granted half share to the deceased Plaintiff Nallammal and half share to the Appellant. The Appellant claims absolute ownership over the suit properties.

It is further submitted that during the pendency of appeal, the Appellant sold the properties to third parties and they have also been arrayed as parties in the Final Decree application.

Now, considering the age of litigation and considering the legal aspects, the Appellant agrees that he and his successors-in-title are entitled to half share over the suit properties and the deceased plaintiff was entitled to half share over the suit properties as per the decree of the Courts below. The Appellant agrees to dispose of the Second Appeal by confirming the half share to the deceased plaintiff and the remaining half share to the Appellant or to his successors-in-title.

To that effect, this Memo is filed and the same may be recorded.

4. The learned counsel appearing for the respondents would submit that the plaintiff is no more and there are four legal heirs and the second respondent is one of the legal heirs and the plaintiff has already executed a Will for her half share of the suit schedule property. Further, he would



S.A.No.860 of 1999

submit that the other legal heirs are not at all made any claim and all these aspects have been considered by the first appellate Court.

5. This Court is inclined to accept the request of the learned counsel for the appellant and confirm the judgment and decree passed by the first appellate Court and what are the judgment and decree passed by the first appellate Court would bind both the appellant as well as the respondents. Further, the learned counsel for the appellant would submit that final decree proceedings also initiated and the Advocate Commissioner also filed a report and the report has to be considered and the trial Court has to pass appropriate orders on the final decree proceedings. Since the matter is pending for a very long time, the Court below is directed to dispose of the final decree proceedings within a period of three months from today. Accordingly, the Second Appeal is disposed of, in terms of the Memo filed by the appellant. No costs.

14.09.2023

akv



S.A.No.860 of 1999

WEB COPY

To

- 1.The Principal District Judge,
Thiruchirapalli.
- 2.The Subordinate Judge,
Karur.
- 3.The Section Officer,
Vernacular Records Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



S.A.No.860 of 1999

KRISHNAN RAMASAMY, J.

akv

S.A.No.860 of 1999

14.09.2023