



S.A.No.530 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 26.09.2024

CORAM

THE HON'BLE MR. JUSTICE R.SAKTHIVEL

S.A.No.530 of 2018
and
C.M.P.No.14885 of 2018

1. Kunjianna Gounder
2. K.Ramachandran
3. K.Sowndararajan
4. K.Nagarajan

... Appellants

Vs.

- K.Kondathu Gounder (died)
1. K.Nanjappan
- K.Palanisamy (died)
- Sarojini (died)
2. Ramathal
 3. R.Aruchamy
 4. Marathal
 5. Senthilkumar
 6. Janarthanan
 7. Rangammal
 8. C.Nanjappan
 9. C.Subramaniam
 10. Smt.Santhamani
 11. N.Krishnasamy
 12. K.Vellingiri
 13. Smt.Thulasimani
- N. Ramasamy (died)
14. N.Senthilkumar



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15. R.Sasi
16. N.Palanisamy
17. P.Sivakumar
18. Selvan
19. M.Arunsankar
20. Velumani
21. Vijayakumar
22. Ponnusamy
23. Sumathi
24. Kariammal

... Respondents

PRAYER: Second Appeal is filed under Section 100 of the Civil Procedure Code 1908, against the judgment and decree dated 20.03.2018 made in A.S.No.46 of 2014 on the file of the III Additional District and Sessions Judge, Coimbatore, confirming the judgment and decree passed in O.S.No.764 of 2008 dated 28.10.2013 on the file of the III Additional Sub Ordinate Judge, Coimbatore.

For Appellants : Mr.R.Marudhachalamurthy
For R1 to R6 & R21 to 23 : Mr.J.Vignesh

R7 to R20 & R24
Not Ready in Notice

JUDGMENT

Mr.R.Marudhachalamurthy, learned Counsel for the appellants and
Mr.J.Vignesh, learned Counsel for R1 to R6 & R21 to R23 are before this
Court.



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2. Mr.K.Sowndararajan (Appellant No.3) is present physically before the Court. The Appellant Nos.1, 2 & 4 and the Respondent Nos.1 to 6 and the Respondent Nos.21 to 23 are before this Court through Video Conferencing mode. Notably, both the learned Counsels have verified the identity of the aforesaid parties and have also annexed a copy of Identity proofs of the aforesaid parties.

3. Both the parties have filed a Joint Compromise Petition under Order XXIII Rule 3 and Section 151 of Civil Procedure Code 1908, which reads as follows :

**IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Appellate Jurisdiction)**

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1. Kunjianna gounder,
S/o. Late Kappini Gounder,
2. K.Ramachandran
S/o. Kunjianna gounder,
3. K.Sowndararajan
S/o. Kunjianna gounder
4. K.Nagarajan,
S/o. Kunjianna gounder
All are residing at
7/43, Samanaickenpalayam,
No.4 Veerapandi Post, Coimbatore. ... Appellants

-Versus-

- K.Kondathu gounder (died)
1. K.Nanjappan,
S/o. Kondathu gounder
Aathikuttai, Avinashi Taluk, Coimbatore
 - K.Palanisamy (died)
Sarejini (died)
 2. Ramathal,
W/o. Palanisamy,
D.No.7/220, Samanaickenpalayam,
No.4 Vccapandi Post, Coimbatore.
 3. R.Aruchamy, S/o. Kondathu gounder,
Akkamma Kovil Street, Senkalipalayam,
N.G.G.O. Post, Coimbatore.
 4. Marathal, W/o. late Palanisamy
Aathi Kuttai, Avinashi Taluk, Coimbatore





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5. Senthilkumar, S/o. Late Palanisamy
Aathi Kuttai, Avinashi Taluk, Coimbatore.
6. Janarthanan, S/o. late Palanisamy
Aathi Kuttai, Avinashi Taluk, Coimbatore.
7. Rangammal, W/o. late Nanjappa gounder
7/42, Samanaickenpalayam No.4 Veerapandi Post,
Coimbatore.
8. C.Nanjappan, S/o. Late Chinnanna gounder,
7/42, Samanaickenpalayam, No.4 Veerapandi post,
Coimbatore.
9. C.Subramaniam, S/o. Late Chinnanan gounder
7/42, Samanaickenpalayam, No.4 Veerapandi post,
Coimbatore.
10. Smt.Santhamani, D/o. late Chinnanna gounder
7/42, Samanaickenpalayam, No.4 Veerapandi post,
Coimbatore.
11. N.Krishnasamy, S/o. late Nanjappa gounder
7/42, Samanaickenpalayam, No.4 Veerapandi post,
Coimbatore.
12. K.Vellingiri, S/o. Krishnasamy
7/42, Samanaickenpalayam, No.4 Veerapandi post,
Coimbatore.
13. Smt.Thulasimani, D/o. Krishnasamy
7/42, Samanaickenpalayam, No.4 Veerapandi post,
Coimbatore.
- N.Ramasamy died
14. N.Senthilkumar, S/o. Ramasamy
7/42, Samanaickenpalayam, No.4 Veerapandi post,
Coimbatore.
15. R.Sasi, D/o. Ramasamy
7/42, Samanaickenpalayam, No.4 Veerapandi post,
Coimbatore.





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16. N.Palanisamy, D/o. Late Nanjappa gounder
7/42, Samanaickenpalayam, No.4 Vecrapandi post,
Coimbatore.
 17. P.Sivakumar, S/o. Palanisamy gounder,
7/42, Samanaickenpalayam, No.4 Vecrapandi post,
Coimbatore.
 18. Selvan, S/o. Nanjammal
7/42, Samanaickenpalayam, No.4 Vecrapandi post,
Coimbatore.
 19. M.Arunsankar, S/o. P. Murugesh
140, Light House Road,
Coimbatore.
 20. Velumani, S/o. Not known
Akkamma Kovil Street,
Senkalipalayam N.G.G.O Post,
Coimbatore.
 21. Vijayakumar, S/o.Vehumatni
Akkamma Kovil Street,
Senkalipalayam N.G.G.O Post,
Coimbatore.
 22. Ponnusamy, S/o.Velumani
Akkamma Kovil Street,
Senkalipalayam N.G.G.O Post,
Coimbatore.
 23. Sumathi, W/o. Sundararaj,
Akkamma Kovil Street,
Senkalipalayam N.G.G.O Post,
Coimbatore.
 24. Kariammal, W/o. Ramasamy,
7/42, Samanaickenpalayam No.4 Vecrapandi Post,
Coimbatore.
- ...Respondents





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**COMPROMISE PETITION FILED UNDER ORDER 23 RULE 3 AND
SEC.151 OF CIVIL PROCEDURE CODE**

1. That the respondents 1 to 6 herein and 3 others are plaintiffs in O.S.No.764/2008 filed the suit for partition on the file of III Addl. Subordinate Judge, Coimbatore and seek to divide 24 equal shares in respect of 1st item of suit property and allot 6 such shares to the plaintiffs further seeks to divide the 2nd item of suit schedule property into two equal shares and allot one such share to the plaintiffs.

2. That the trial court decreed the suit as prayed for by the plaintiffs.

3. That aggrieved on the preliminary judgment & decree of trial court as stated supra, the appellants herein filed an appeal in A.S.No.46 of 2014 on the file of III Addl. District and Sessions Judge, Coimbatore.

4. That the lower appellate court by its judgment and decree dated 20.03.2018 dismissed the appeal.

5. That the appellant herein filed the above second appeal as against the concurrent judgment and decree passed by the courts below.

6. That this Hon'ble Court was pleased to admit the above second appeal by order dated 15.11.2018 and also grant an order of stay passing of final decree alone.

7. That the parties have now resolved to amicably settle the disputes among themselves on the following terms and conditions: -





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claiming any right against each other in respect of the suit schedule properties,

8. That the 20th respondent died pending appeal and his legal heirs are already on record who are respondents 21 to 23.

9. That the respondents 7 to 18 and 24 are allotted shares only in respect of 1st item of suit schedule property along with other appellants and respondents herein and all of them are joined together sold to in favour of 19th respondent and in respect of 2nd item no allocation of share to in favour of respondents 7 to 19 and 24 and therefore they are not party to this memo of compromise and they are not proper and necessary party for this memo of compromise and already they are exparte from trial court to here.

Hence this Hon'ble Court may be pleased to decree the above second appeal by recording this Memo of Compromise and thus render justice.

1. KUNJIANAN GOUNDER
(1ST APPELLANT)



2. RAMACHANDRAN
(2ND APPELLANT)

K Ramachandran

3. SOUNDARARAJAN
(3RD APPELLANT)

K. Soundararajan

1. NANJAPPAN
(1ST RESPONDENT)

N. Nanjappan

2. RAMATHAL
(2ND RESPONDENT)

Ramathal

3. ARUSAMY
(3RD RESPONDENT)

A. Arusamy





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4. NAGARAJAN
(4TH APPELLANT)

[Signature]

4. MARATHAL
(4TH RESPONDENT)

[Signature]

5. SENTHILKUMAR
(5TH RESPONDENT)

[Signature]

6. JANARTHANAN
(6TH RESPONDENT)

[Signature]

7. VIJAYAKUMAR
(21ST RESPONDENT)

[Signature]

8. PONNUSAMY
(22ND RESPONDENT)

[Signature]

9. SUMATHI
(23RD RESPONDENT)

[Signature]

For P.L. *[Signature]* 23/07/20

[Signature]
COUNSEL FOR APPELLANTS

COUNSEL FOR RESPONDENTS



[Signature] 10/9/20
K.S. VIJAYAKUMAR, M.A./B.L.
ADVOCATE & NOTARY PUBLIC
GOVERNMENT OF INDIA
47, IDRAHIM 1st STREET, CHENNAI-7
Mobile : 98413 73276



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4. The terms of compromise entered into by the parties have been read over and explained to all the parties to the compromise. They have agreed to the terms of compromise. Hence, the Joint Compromise Petition filed under Order XXIII Rule 3 and Section 151 of Civil Procedure Code 1908 is hereby recorded and allowed.

5. In view of the Joint Compromise Petition filed under Order XXIII Rule 3 and Section 151 of Civil Procedure Code 1908, this Second Appeal is disposed of in terms of the above compromise. Compromise decree shall be drawn in accordance with the terms of the above compromise. No costs. Connected Civil Miscellaneous Petition is closed.

26.09.2024

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Index : yes/no

Internet : yes/no

Speaking Order / Non-Speaking Order

To

1. The III Additional District and Sessions Judge, Coimbatore
2. The III Additional Sub Ordinate Judge, Coimbatore



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R.SAKTHIVEL, J.

raja

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