



S.A.No.1235 of 2013

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

S.A.No.1235 of 2013

and

M.P.No.1 of 2013

1.Palaniappa Gounder (Died)

2.Samiappan

.. Appellants

Vs.

1.Chellammal

2.Arukkani

.. Respondents

(A1 Died. RR1 to 3 already on record as LR's of the deceased A1 and R3 transposed as an Appellant 2, vide Court order dated 02.01.2024 made in S.A.No.1235/2013 by VLNJ)



S.A.No.1235 of 2013

Prayer : This Second Appeal is filed under Section 100 of Civil Procedure Code, to set aside the judgment and decree dated 19.11.2012 made in A.S.No.66 of 2012 on the file of the I Additional District Court, Erode reversing the finding of the judgment and decree, dated 05.08.2011 made in I.A.No.331 of 2010 in O.S.No.410 of 2009 on the file of I Additional Subordinate Court, Erode.

For Appellants : Mr.M.Guruprasad

For Respondents : Mr.V.S.Kesavan

JUDGMENT

The learned counsel for the appellant seeks permission of this Court to withdraw this appeal with a liberty to raise all the objections with respect to the suit before the Trial Court.

2. Liberty is granted. It is needless to state that rejection of plaint is a plea in demurrer and for the purpose of the same, the averments made in the plaint had alone taken to be true. It is up to the Trial Court, during the time of trial, to marshall the evidence let in on the basis of the pleadings to come to a conclusion whether the plaintiff has proved his case. The withdrawal of this appeal will not have any bearing on the rights of the parties to agitate their respective rights during the time of the trial.



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3. With the above observation, the Second Appeal stands dismissed as withdrawn. Consequently, connected Miscellaneous Petition is closed.

29.02.2024

Index:Yes/No
Speaking Order :Yes/No
Neutral Citation:Yes/No
mkn2

To

- 1.The I Additional District Court,
Erode
- 2.The I Additional Subordinate Court,
Erode



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