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Second Appeal Nos.423, 425, 1184
& 1185 of 2019 and A.S.No.435 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Second Appeal Nos.423, 425, 1184 & 1185 of 2019
and A.S.No.435 of 2019 and
C.M.P.Nos.12222, 6329 and 6322 of 2019

S.A.No.423 of 2019

Dhanasegaran

.... Appellant

-Vs-

1.Mathiazhagan
2.Gunasundari Mathiazhagan
3.Ranganathan
4.Gandhi
5.Ally
6.Hema Priyadarshini
7.Vinothselvam

.... Respondents

Prayer : Second Appeal under Section 100 of C.P.C., against the judgment and decree dated 10.09.2018 passed by the Principal District Court Pondicherry , in A.S.No.252 of 2006 reversing the Judgment and the decree dated 20.11.2002 in O.S.No.30 of 1999 on the file of the Additional Sub Court Pondicherry.

S.A.No.425 of 2019

Dhanasegaran

.... Appellant

-Vs-

1.Hema Priyadarsini
2.vinothselvam
3.Mathiazhagan
4.Gunasundari Mathiazhagan



Second Appeal Nos.423, 425, 1184
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5.Ranganathan
6.Gandhi
7.Ally

.... Respondents

Prayer : Second Appeal under Section 100 of C.P.C., against the judgment and decree dated 10.09.2018 Cross Objection I.A.No.2491 of 2015 in A.S.No.252 of 2006 by the Principal District Court, Pondicherry , reversing the Judgment and the decree dated 20.11.2002 in O.S.No.30 of 1999 on the file of the Additional Sub Court Pondicherry.

In S.A.Nos.423 and 425 of 2019

For Appellant	: Ms.R.Meenal
For Respondents	: Mr.D.Ravichander -for RR 1 to 4 Mr.A.Gandhiraj for RR 5 to 7

S.A.No.1184 of 2019

Hema Priyadarshini

.... Appellant

-Vs-

1.Mathiazhagan
2.Gunasundari Mathiazhagan
3.Ranganathan
4.Gandhi
5.Ally
6.Danasegaran

.... Respondents

Prayer : Second Appeal under Section 100 of C.P.C., to set aside adverse findings of Points No.2 to 8 of the Judgment in Cross Objection in I.A.No.2491/2015 in A.S.No.252/2006 on the file of the Principal District Judge at Puducherry.



Second Appeal Nos.423, 425, 1184
& 1185 of 2019 and A.S.No.435 of 2019

S.A.No.1185 of 2019

1.Hema Priyadarshini
2.Vinothselvam

... Appellants

-Vs-

1.Mathiazhagan
2.Gunasundari Mathiazhagan
3.Ranganathan
4.Gandhi
5.Ally
6.Danasegaran

.... Respondents

Prayer : Second Appeal under Section 100 of C.P.C., to set aside clause (iv) of the Decree of the Decree in AS No.252/2006 and reverse the findings of Points No.2 to 8 of the Judgment in AS No.252 of 2006 on the file the Principal District Judge Puducherry.

In S.A.Nos.1184 and 1185 of 2019

For Appellant	: Mr.A.Gandhiraj
For Respondents	: Mr.D.Ravichander -for RR 1 and 2 Ms.R.Meenal - for R6 RR 3 to 5 - No appearance

A.S.No.435 of 2019

Dhanasegaran Appellant

-Vs-

1.Hema Priyadarsini
2.Vinothselvam
3.Ally
4.Mathiazhagan
5.Gunasundari Mathiazhagan
6.Mariasusai
7.Ranganathan
8.Gandhi

.... Respondents



Second Appeal Nos.423, 425, 1184
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Prayer : First Appeal under Section 96 of the Code of Civil Procedure against the judgment and the decree dated 10-09-2018 passed in O.S.No.22/2005 by the Principal District Court Pondicherry.

For Appellant : Ms.R.Meenal

For Respondents : Mr.D.Ravichander
-for RR 1,2,4 and 5
Mr.A.Gandhiraj
for RR 2, 3 and 7
R6 - Not ready in notice

COMMON JUDGMENT

This batch of appeals arise out of a suit in O.S.No.30 of 1999 on the file of the Additional Sub Court Puducherry and O.S.No.22 of 2005 on the file of the Principal District Court at Puducherry.

2. Pending appeals, the parties have compromised the matter and have entered into a joint memo of compromise. The compromise memo has been signed by all the contesting parties.

3. Heard Ms.Meenal, Mr.D.Ravichander and Mr.Alexander for Mr.A.Gandhiraj, learned counsel for the parties. I have enquired with the parties and they stand by the compromise. I have gone through the compromise memo and I do not find anything illegal or irregular in the same. The compromise memo is extracted hereunder and the same shall stand form part of the judgment.



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Second Appeal Nos.423, 425, 1184
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IN THE HIGH COURT OF JUDICATURE AT
MADRAS

S.A.No.423 of 2019

Against

A.S.No. 252 of 2006
(Principal District Court, Pondicherry)

Against
O.S.No. 30 of 1999
(Additional Sub Court,Pondicherry)

Danasegarane

.. Appellant/1st Respondent/Plaintiff
Vs

1. Hema Priyadarshini
D/o. Late Late Senthamarakannan

2. Vinothselvam
S/o. Late Late Senthamarakannan
:: Respondents 1 & 2/Respondents 2 & 3/3rd Parties

3. Mathiazhagan
No.70, Nidarrajappayer
Street Pondicherry-1.

4. Gunasundari
Mathiazhagan W/o.
Mathiazhagan
No.70, Nidarrajappayer
Street Pondicherry-1.

5. Maria Susai

6 Ranganathan (Died on 16.9.2022) -

7. Gandhi (Died 28.8.2020)

8. Ally
W/o. Late
Senthamarakannan No. 70,
Nidarrajappayer Street
Pondicherry-1.

:: Respondents 3 to 8/Appellants/Defendants 1 to 5





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S.A. No. 425 of 2019
Against
I.A.No. 2491 OF 2015
in
A.S.No. 252 of 2006
(Principal District
Court,Pondicherry)Against
O.S.No. 30 of 1999
(Additional Sub Court,Pondicherry)

Danasegarani
S/o.Sarasvady
2 Bis Avenue Alexis
varagne
95400- Villiers le Bel
France,
Permanent address at
70, Nidarrappayer
StreetPondicherry

: Appellant/7th Respondent/1st Respondent/Plaintiff
1st Respondent
-Vs-

1. Hema Priyadarshini
D/o. Late Late Senthamaraikannan

2. Vinothselvam
S/o. Late Late Senthamaraikannan

== Respondents 1 & 2/Cross Objectors/Respondents 2 & 3/3rd

Parties 3. Mathiazhagan
No.70, Nidarrappayer
StreetPondicherry-1.

4. Gunasundari
Mathiazhagan W/o.
Mathiazhagan
No.70, Nidarrappayer
StreetPondicherry-1.

5. Ranganathan (Died on 16.9.2022)

4. Gandhi (Died on 28.8.2020)

5. Ally
W/o. Late Senthamaraikannan



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:: Respondents 3 to 7/ Respondents 1 to 6/Appellants/Defendants

S.A.No.1184 of 2019

Against

Cross Obj I.A.No. 2491 of
2019in

A.S.No. 252 of 2006

(Principal District

Court,Pondicherry)Against

O.S.No. 30 of 1999

(Additional Sub Court,Pondicherry)

Hema Priyadarshini

D/o. Late Late Senthumaraikannan

2. Vinothselvam

S/o. Late Late Senthumaraikannan

:: Appellants/Cross Objectors/Respondents 2 & 3/3rd
Parties

Vs

1. Mathiazhagan

2. Gunasundari Mathiazhagan

3. Ranganathan (Died on 16.9.2022)

4. Gandhi (Died on 28.8.2020)

5. Ally :: Respondents 1 to 5/Appellants 1 to 4, 5 & 6/Defendants

6. Danasegarane :: 6th Respondent/7th Respondent/1st
Respondent/Plaintiff

S.A.No.1185 of 2019

Against

A.S.No. 252 of 2006

(Principal District Court,Pondicherry)

Against

O.S.No. 30 of 1999

(Additional Sub Court,Pondicherry)

1. Hema Priyadarshini

2. Vinothselvam

:: Appellants/respondents 2 & 3/3rd Parties

Vs

1. Mathiazhagan

2. Gunasundari Mathiazhagan

3. Ranganathan (Died on 16.9.2022)

4. Gandhi (Died on 28.8.2020)

5. Ally :: Respondents 1 to 5/Appellants 1 TO 4, 5 & 6/Defendants



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6. Danasegarane :: 6th Respondent/1st Respondent/Plaintiff

A.S.No. 435 of 2019
against O.S.No. 22 of 2005
(Principal District Court,Pondicherry)

Danasegarane :: Appellant/1st Defendant Vs

1.Hema Priyadarshini

2. Vinothselvam :: Respondents 1 & 2/Plaintiffs

3.Mathiazhagan

4. GunasundarMathiazhagan

5.Maria Susai

6 Ranganathan (Died on 16.9.20222)

7. Gandhi (Died on 28.8.2020)

8. Ally :: Respondents 3 to 8/ Defendants 2 to 7

JOINT COMPROMISE MEMO

The parties hereto submit as follows:-

1. The dispute in all the above proceedings is with respect to the title and possession of house and ground in No. 70 (Old.No.50), Nidarajapayer Street, Pondicherry more fully described in the schedule hereunder:-
2. Dhanasegaran filed O.S.No. 30 of 1999 before the Additional Sub Court, Pondicherry for declaration of his title to the property, recovery of possession and other reliefs. The suit was decreed.
3. Mathiyazhagan and others filed A.S.No.252 of 2006, before the Principal District Court, Pondicherry
4. Hemapriyadarshini and Vinothselvam filed Cross Objections in I.A.No.2491 of 2015.
5. Both the appeal and the cross objections were allowed. But the suit was dismissed. The parties were given liberty to file a fresh suit for



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5.

Hon'ble Court. He also filed S.A.No. 425 of 2019 against the decree in the cross objections

6. Hemapriyadharsini and Vinotheselvam filed S.A.No. 1185 of 2019 against the decree in the appeal and S.A.No. 1184 of 2019 against the decree in the cross-objections.

7. Hemapriyadharsini and Vinotheselvam also filed O.S.No.170 of 2004 before the Principal District Court, Pondicherry for partition of the suit property for allotting a half share to them and for other reliefs. The suit was partly decreed holding that the decree in O.S.No. 30 of 1999 was not binding on them but held that the parties were at liberty to file a suit for partition

8. Dhanasegaran filed A.S.No.435 of 2019 before this Hon'ble Court.

9. All the above Second Appeals and Regular Appeal are pending before this

Hon'ble Court.

10. Two of the respondents, Gandhi and Ranganathan passed away. They do not have any legal representatives. They did not file any appeal or second appeal before this Hon'ble Court.

11. The parties hereto have amicably settled the dispute among themselves and out of their own volition, free will and consent, have entered into a compromise, the terms of which are set out hereunder:-

TERMS OF COMPROMISE

(a) The parties do hereby agreed that they all Join together and sell the suit property to third parties and appropriate their shares which is more fully described under the succeeding clauses of this memorandum. Dhanasegaran will take a 40% undivided share in the schedule property.

(b) Ally, the mother of Hemapriyadharsini and Vinotheselvam is entitled to an undivided 33% of share of the schedule property which share includes the shares of her daughter and son Hemapriyadharsini and Vinotheselvam.



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- E
- (c) Mathiyazhagan and Gunasundari are entitled to the remaining 27% undivided share in the schedule property.
 - (d) Maria Susai who was only a tenant in the property has since vacated.
 - (e) The deceased respondents Gandhi and Ranganathan have no legal heirs.
 - (f) The parties hereto declare and undertake that they have no further or other claim against each other.
 - (g) The parties hereto agree and undertake that none of the parties, or their legal heirs, or assigns or those claiming under them is entitled to enter into or create any transaction, including sale, mortgage, agreement or any other encumbrance, individually or for their respective undivided share. In other words, any such transaction can be entered into only by all the parties herein jointly and not individually.
 - (h) The parties hereto undertake that they shall strictly abide by and adhere to the terms and conditions of this joint compromise memo and that they, and their legal representatives, assigns and those claiming under them are bound by the terms of this compromise memo.
 - (i) The parties have agreed to bear their respective costs.
 - (j) It is therefore prayed that this Hon'ble Court be pleased to record this joint compromise memo and pass such further or other orders as may be deemed just and proper in the circumstances of this case and thus render justice.
 - (k) It is further prayed that this memo of compromise is made part of the decree.

Dhanasegarane

L. Hemapriyadharsini



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2. Vinothselvam

3. Mathiazhagan

4. Gunasundari Mathiazhagan

5. Ally

SCHEDULE OF PROPERTY

The brick build house covered partly by tiles and partly terraced bearing 70,(Old.No.50) Nidarrappayer Street, Pondicherry, in the North of the said street, in the West of Choultry called Ammanivassamie belonging at the succession of Aroquiassamy Mudaliar, in the East of the house belonging to the succession of Gobalyar and in the South of the house of Kichurapillai

Dated at Pondicherry this the 2nd day of August, 2024

Dhanasekaran

1. Hethupriyadharsini

2. Vinothselvam

3. Mathiazhagan

4. Gunasundari Mathiazhagan

5. Ally

R. Meenal
T. 10/20
Counsel for the appellant

Counsel for the respondent



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4. In terms of the above compromise memo entered into between the parties, all these appeals are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

02.08.2024

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order / Non-speaking order
KST
To

1.The Principal District Judge
Puducherry

2.The Additional Subordinate Judge
Puducherry.



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V.LAKSHMINARAYANAN, J.

KST

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& 1185 of 2019 and
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02.08.2024