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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

S.A.(MD).No.296 of 2008

and

M.P.(MD)No.2 of 2008

1.S.Santhanam

2.S.Krishnamoorthy

3.S.Ramani

4.S.Sridharan

5.S.Narayanan

6.S.Jeyalakshmi

... Appellants

[5th respondent represented by his Power agent S.Ramani/3rd Appellant herein]

/Vs./

1.Srivaramangai

2.T.Srinivasan

3.T.Rajam

4.T.Rukmani

5.S.Ramamoorthy (Died)

6.S.Ramakrishnan (Died)

7.R.Srinivasa Rengan



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8.K.Srivaramangai

9.R.Narayanan

10.Srinivasan Ramakrishnan

11.Thiruvenkadam Ramakrishnan

12.Rukmani Srinivasan

... Respondents

[Respondent Nos.2 to 4 set exparte. Hence, notice is not necessary]

[Respondent Nos.7 to 9 brought as legal representatives of deceased 5th respondent as per the order of this Court dated 01.12.2015 made in M.P.(MD).No.1 to 3 of 2014 in S.A.(MD).No.296 of 2008]

[Respondent Nos.10 to 12 are suo-motu 6th respondent as per the order of this Court dated 19.09.2024 in S.A.(MD).No.296 of 2008]

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the Judgment and decree dated 25.02.2005 made in A.S.No.10 of 2005 on the file of the II Additional Subordinate Court, Tirunelveli, confirming the fair and final order dated 10.09.2003 made in I.A.No.33 of 1996 in O.S.No.416 of 1968 on the file of the I Additional District Munsif Court, Tirunelveli.

For Appellants : Mr.R.Devaraj

For R-1 to R-4 : Mr.S.B.Kamalanathan

For R-7 : Mr.H.Arumugam

For R-8 & R-9 : Mr.T.Selvan

For R10 to R12 : Mr.M.S.Parthiban



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JUDGMENT

This Second Appeal is filed against the Judgment and Decree dated 25.02.2005 passed in A.S.No.10 of 2005 on the file of the II Additional Subordinate Court, Tirunelveli, confirming the fair and final order dated 10.09.2003 passed in I.A.No.33 of 1996 in O.S.No.416 of 1968 on the file of the I Additional District Munsif Court, Tirunelveli.

2. The defendants 3 to 8 are the appellants herein, the defendants 12 to 15 are respondents 1 to 4 and the defendants 3 and 4 are the respondents 5 to 6 and their legal heirs are respondents herein and the plaintiff died. For the sake of convenience, the parties shall be referred as plaintiff and defendants as per the ranking in the suit.

3. The suit in O.S.No.416 of 1968 on the file of the I Additional District Munsif Court, Tirunelveli was filed for partition and recovery of possession and for recovery of Rs.55. The suit was decreed. The final decree application was filed in I.A.No.33 of 1996 in O.S.No.416 of 1968 and the same



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was allowed vide order dated 10.09.2003. Aggrieved over the order passed in final decree application an appeal in A.S.No.10 of 2005 was filed, wherein the Appellate Court had confirmed the order passed in the final decree application, vide judgment and decree dated 25.05.2005. Aggrieved over the same, the present Second Appeal is preferred by the Appellants.

4. Pending the Second Appeal the 5th respondent, namely Ramamoorthy died on 27.08.2008 and his legal heirs have been impleaded as respondents 7 to 9. The 6th respondent S.Ramakrishnan died on 28.01.2002 and his Legal heirs are impleaded as 10 to 12 respondents.

5. Further, pending the second appeal the parties have entered into compromise and a joint memo of compromise is filed. Since some of the parties are residing at various places and some of them are residing abroad, the Learned Counsels appearing for the appellants and the respondents have filed a separate memo indicating the compromise. The 5th appellant is residing in United Kingdom, who has signed in the compromise memo and the same was notarized



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at London. All the parties have affixed their signatures and affirmed the compromise. The memo is also taken on record along with the Joint compromise memo.

6. In the said joint compromise memo, the parties have agreed for compromise along with certain conditions. This Second Appeal is disposed of in terms of the joint compromise memo.

7. The Learned Counsel appearing for the appellants submitted that the 3rd item stated in the joint memo is not stated in the suit schedule of properties but prayed that the same may be included in the decree. The said plea is accepted and registry is directed to add the same in the Decree. The Joint Compromise Memo shall form part and parcel of the judgment and decree. No costs. Connected Civil Miscellaneous petitions are closed.

03.10.2024

Index : Yes / No
NCC : Yes / No
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TO:

1. The II Additional Subordinate Court, Tirunelveli,
2. The I Additional District Munsif Court, Tirunelveli.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

KSA

Judgment made in
S.A.(MD)No.296 of 2008

Dated:
03.10.2024