



S.A(MD)No.277 of 2005

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **08.08.2024**

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

**S.A(MD)No.277 of 2005
and
C.M.P(MD)No.2408 of 2005**

1.S.Sahul Hameed
2.S.Mohammed Ali
3.S.Syed Ali
4.K.Mimoon Beevi
5.S.Mohammed Fathimal ... Appellants/Respondents/Plaintiffs

Vs.

1.K.Kaja Mydeen
2.M.S.Syed Mohammed Buhari
3.S.Abubacker
4.S.Sheik Dawood
5.A.K.Raihana Beevi ... Respondents/Appellants &
Respondents 6 to 8/Defendants

R – 2 to R – 4 are set exparte (given up)
(R – 5 is impleaded vide order dated 23.08.2011 in
M.P(MD)No.1 of 2011)

Prayer: Second Appeal filed under Section 100 of the Code of Civil Procedure against the judgment and decree dated 13.10.2004 made in A.S.No.84 of 2004 on the file of the 1st Additional Sub Court, Tirunelveli, reversing the judgment and decree dated 23.01.2004 made in O.S.No.214 of 1999 on the file of the 1st Additional District Munsif Court, Tirunelveli.

For Appellants : Mr.H.Arumugam

For R – 5 : No appearance



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JUDGMENT

This Second Appeal has been directed against the Judgment and decree, dated 13.10.2004 made in A.S.No.84 of 2004 on the file of the 1st Additional Sub Court, Tirunelveli, wherein, the Judgment and decree, dated 23.01.2004 made in O.S.No.214 of 1999 on the file of the 1st Additional District Munsif Court, Tirunelveli, are reversed.

2.The appellants herein as plaintiffs have instituted a suit in O.S.No.214 of 1999 on the file of the trial Court as against the first respondent seeking for the relief of declaration that the suit second scheduled property belongs to the appellants and the respondents 2 to 4 and for consequential permanent injunction restraining the first respondent, his men and agent from interfering with the peaceful possession and enjoyment of the suit property. The said suit was decreed. As against which, the first respondent has preferred an appeal in A.S.No.84 of 2004 on the file of the Appellate Court, wherein the said appeal was allowed. Aggrieved over the same, the plaintiffs as appellants have preferred the present Second Appeal.

3.When the matter came up for hearing on 04.11.2022, the learned counsel appearing for the appellants submitted that the first



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respondent had passed away, but he had sold the suit property entirely to the fifth respondent, who was subsequently impleaded in the Second Appeal and hence, there is no need to take steps to implead the LRs of the first respondent.

4.When the matter is taken up for hearing today, the learned counsel appearing for the appellants submitted that the fifth respondent viz., A.K.Raihana Beevi has purchased the property from the first respondent, who in turn had executed a sale deed in favour of the fourth appellant/fourth plaintiff viz., K.Mimoon Beevi, W/o.Kaja Hussian, vide Document No.6637 of 2013 on 27.08.2013 and the parties have entered into a compromise, hence, nothing survives for further adjudication in the Second Appeal.

5.Recording the submission made by the learned counsel appearing for the appellants, this Second Appeal is closed. No costs. Consequently, connected Miscellaneous Petition is closed.

08.08.2024

NCC : Yes/No
Index : Yes/No
ps



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To

- 1.The 1st Additional Sub Court,
Tirunelveli.
- 2.The 1st Additional District Munsif Court,
Tirunelveli.
- 3.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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V.BHAVANI SUBBAROYAN, J.

ps

Judgment made in
S.A(MD)No.277 of 2005

08.08.2024