



C.M.A.(MD).No.832 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.08.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.M.A.(MD).No.832 of 2022
and C.M.P.(MD).No.7841 of 2022

1.P.Leelavathi
2.K.Kamatchi Sundari (Died)
3.P.Aruna Sanker
4.P.Mari Rajan
5.G.Radha ... Appellants/Petitioners/Plaintiffs
(5th Appellant is brought on record as LR of the deceased 2nd Appellant
vide Court order dated 29.04.2024 made in C.M.P.(MD).No.4894 of
2024)

Vs.

1.Sivanupandi Thevar
2.Poolpandi
3.Subbiah Thevar
4.Krishnapandi Thevar ... Respondents/Respondents/Defendants

PRAYER : Civil Miscellaneous Appeal is filed under Order 43 Rule 3
of Civil Procedure Code, to call for the records pertaining to the fair and
decreetal order in I.A.No.1 of 2021 in O.S.No.193 of 2021, passed by
District Judge, Tenkasi and set aside the same.

For Appellants : Mr.K.P.Narayanakumar

For Respondents : Mr.B.Prahalad Ravi for R1 to R4



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JUDGMENT

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This appeal has been filed to set aside the fair and decretal order in I.A.No.1 of 2021 in O.S.No.193 of 2021, passed by District Judge, Tenkasi

2.This appeal is preferred against the order of dismissal passed by the trial Court in I.A.No.1 of 2021 in O.S.No.193 of 2021. That application was filed under Order 39 Rule 1 and 2 and Section 151 CPC, seeking temporary injunction. That application after hearing both sides, came to be dismissed by the trial Court by the order, dated 16.06.2022. Against which this appeal is preferred.

3.Report was called for from the trial Court as to the stage of the trial process of the suit proceedings. Report submitted by the trial Court, stating that it was originally posted for trial on 05.06.2023. Thereafter, amendment application was filed by the plaintiff to amend the plaint schedule properties. In the meantime, the second plaintiff was reported to be dead. To add the legal heirs of the second plaintiff, application in I.A. 8 of 2024 under Section 5 of the Limitation Act was filed and stated to



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be pending.

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4.In view of the above said development before the trial Court, I am of the considered view that the trial may be taken on its own merits to its logical conclusion. The second plaintiff is reported to be dead and properties also amended. No purpose is going to be served in keeping the appeal on record. So the appeal is disposed of, of course with liberty to the appellants to approach the trial Court to speed up the trial process. No costs. Consequently, connected miscellaneous petition is closed.

01.08.2024

Index : Yes / No
Internet : Yes / No
TM

To

- 1.The I Additional District and Sessions Judge, (PCR), Motor Accident Claims Tribunal, Thanjavur.
- 2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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