



WEB COPY



A.S.(MD)No.182 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

A.S.(MD)No.182 of 2015

and

M.P.(MD)No.2 of 2015

J.Vetrivel

...Appellant

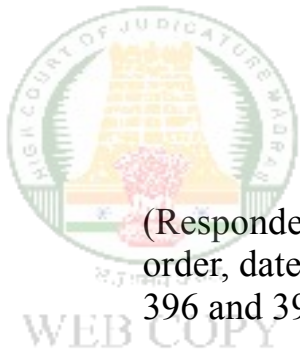
Vs.

1.B.Leelavathi
2.V.Gnanajothi
3.G.Mahalakshmi
4.P.V.Srinivasan
5.V.Syamaladevi
6.V.Manikandan
7.T.Ganesan
8.G.Vijayaprasanna
9.G.Madhumitha
10.J.Mohan
11.Chandra

...Respondents

(Respondents 4 to 6 are brought on record as LR's of the deceased 2nd respondent, vide Court order, dated 22.08.2023, made in C.M.P.(MD)Nos.5710 and 5712 of 2023 in A.S.(MD)No.182 of 2015)

(Respondents 7 to 9 are brought on record as LR's of the deceased 3rd respondent, vide Court order, dated 22.08.2023, made in C.M.P.(MD)Nos.5709, 5711 and 5713 of 2023 in A.S.(MD)No.182 of 2015)



A.S.(MD)No.182 of 2015

(Respondents 10 and 11 are impleaded, vide common order, dated 16.04.2024, made in C.M.P.(MD)Nos. 396 and 397 of 2024 in A.S.(MD)No.182 of 2015)

PRAYER: This Appeal Suit filed under Section 96 and Order 41 Rule 1 of C.P.C., to set aside the preliminary decree and judgment, dated 27.02.2015, made in O.S.No.5 of 2013 on the file of the II Additional District and Sessions Judge, Thanjavur.

For Appellant : Mr.N.Balakrishnan
For R1, R4 to R9 : Mr.H.Lakshmi Shankar
For R10 : Mr.A.Arumugam
For R11 : Mr.V.George Raja
R2 and R3 : Died

JUDGMENT

The suit is filed for partition. The suit was allowed granting 1/5th right to all the parties. However, the second defendant claimed right over the properties except 4th item, which he claims under Will. Since the Will was not produced, the Trial Court held that the Will is not proved and granted 1/5th share. Aggrieved over the same, the present appeal is preferred by the second defendant.



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2. Pending Appeal, the parties have entered into compromise and a joint compromise memo is filed before this Court. The parties appeared before this Court and submitted that they are agreeing for the terms of joint compromise memo.

3. Hence, the appeal is allowed in terms of the joint compromise memo and the joint compromise memo shall form part and parcel of the judgment and decree. Thus, the impugned judgment and decree passed by the Trial Court are set aside. No costs. Consequently, connected miscellaneous petition is closed.

01.08.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes

Tmg

To

1. II Additional District and Sessions Judge,
Thanjavur.

2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.,

Tmg

A.S.(MD)No.182 of 2015

01.08.2024