



C.R.P.(NPD) (MD).No.2476 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)No.2476 of 2018

K.Venkatachalam

... Petitioner/Petitioner/Petitioner/Plaintiff

-vs-

AR.M.AR.RM.Ramanathan Chettiar (died)

AR.M.AR.S.Saminathan Chettiar (died)

AR.M.AR.AR.Arunachalam Chettiar (died)

AR.M.AR.SV.Sevugan Chettiar (died)

1. K.Arunachalam

2. SP.Meyyammai @ Sakunthala

3. SP.Elango

Gandhimathi Achi (died)

4. AR.M.AR.RM.Arunachalam

5. Periya Alagu @ Alagammai

6. Nachan @ Nachammai

7. Manimekalai



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8. Sornam @ Sornavalli

9. Kamalan Achi @ Pethalachi

10. AR.M.AR.SV.Arunachalam @ Thirunavukarasu

11. Alagu @ Alagammai
D/o. Sevugan Chettiar

12. Lakshmi

Alagu @ Alagammai (died)

13. Unnamalai

14. S.Arunachalam @ Thaneermalai

15. A.R.Arunachalam

16. Alagammai

17. Alagu @ Alagammai

18. Muthukarupi

19. Vellaiyan Chettiar,

20. Iyyappan

21. Muthulakshmi

... Respondents/

Respondents 5-7, 9-17, 19-27

Respondents 5-7, 9-17, 19-27

Defendants 5-7, 9-17, 19-27

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, against the fair order and decretal order in I.A.No.448 of 2018 in I.A.No.367 of 2002 in O.S.No.56 of 1996, on the file of the



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Subordinate Court, Devakottai, dated 16.08.2018.

For Petitioner : Mr.S.Ramesh

For R3 : Mr.C.Mahadevan

For R4, R10, R14

and R15 : Mr.R.Sundar Srinivasan

Respondents 1, 2,

6 to 9, 13, 16 to 21

11, 7 and 12 : No appearance

ORDER

The plaintiff in O.S.No.56 of 1996, on the file of the Sub Court, Devakottai, is the revision petitioner herein.

2. The said suit was filed for rendition of accounts of Sreedhana amount of Smt.Alagammai Aachi, for rendition of accounts as executors of the estate of Arunachalam Chettiar, as per his Will dated 23.09.1963 and codicil dated 31.10.1968 and for rendition of accounts relating to A.Y. AR.M.AR.Firm Siramban Malaysia, a dissolved firm.

3. A preliminary decree came to be passed on 11.02.2002, wherein the prayer for rendition of accounts of Sreedhana amount of Smt.Alagammai Aachi was rejected. The other prayers in the plaint were decreed as prayed for. The defendants 2 to 4, 8 to 13 have filed A.S.No.97 of 2002 before this



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Court. Challenging the said preliminary decree along with Cross Objection was filed by the plaintiff. Both the appeal as well as the Cross objection were dismissed by this Court by judgment and decree dated 23.04.2013 and therefore, the preliminary decree passed by the trial Court on 11.02.2002 has attained finality.

4. The plaintiff/decree holder had filed I.A.No.367 of 2002 for passing of final decree. After contest final decree was passed on 30.10.2015. Challenging the said final decree, the plaintiff had filed A.S.No.10 of 2016 before the District Court, Sivagangai, and the same is pending.

5. Pending suit, the schedule mentioned properties were sold in the year 1992 and the sale consideration was deposited in to the Court. While the first appeal as against the preliminary decree in A.S.No.97 of 2002 was pending before this Court, all the parties were permitted to withdraw their respective share amount from the said sale consideration on furnishing security. However, the plaintiff has not chosen to withdraw his share citing the pendency of the first appeal. After passing of final decree on 30.10.2015, the plaintiff has filed I.A.No.448 of 2018 for withdrawal of sum of



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Rs.10,85,246/- towards his share in the sale consideration. However, the said application came to be dismissed by the trial Court on the ground that the plaintiff, having chosen to challenge the final decree proceedings in A.S.No. 10 of 2016, cannot be permitted to withdraw their share amount from the sale consideration. Challenging the said order, the present Civil Revision Petition has been filed by the plaintiff.

6. According to the learned counsel appearing for the revision petitioner, the plaintiff has chosen to challenge the final decree proceedings which represents the rendition of accounts for three properties and therefore, it has nothing to do so with the sale consideration. They are entitled to seek for rendition of accounts for the period from 1968 to 1980. Therefore, the pendency of first appeal as against the final decree has nothing to do in permitting the plaintiff herein to withdraw their shares arising out of sale consideration.

7. Per contra, the learned counsel appearing for the respondents herein though admitted that the plaintiff is entitled to withdraw the share amount from the Court, the respondents herein have prayed that the security that were



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provided by them to the Court for withdrawing their share may be released.

8. Considering the above said facts, the order passed by the trial Court in I.A.No.448 of 2018 is hereby set aside and the application stands allowed. The plaintiff is entitled to withdraw the said amount of Rs.10,85,246/- along with accrued interest without providing any security. All the securities that were provided by the respondents in the appeal shall be released by the trial Court forthwith.

9. With the above said observations, this Civil Revision Petition stands allowed. There shall be no order as to costs.

24.04.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The Subordinate Court,
Devakottai.



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