



Cross Obj.(MD) No.4 of 2005

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

Cross Objection (MD) No.4 of 2005

1.Rajendran alias Sami

2.Pakkirimuthu alias Mani

3.Murugan

4.Kandasamy Pandian

... Cross Objectors

-VS-

1.Poomari

2.Jeyalakshmi (died)

3.Geetha

4.S.Saroja

5.K.Rajammal

6.Muniasamy

7.Gnanam

8.Chenniah

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WEB COPY 9.Rati

10.Akila

11.Thalavai Pandian

12.T.Ram Mohan

13.T.Balamurugan

... Respondents

(R-4 to 10 are given up)

(R-11 to R-13 are brought on record as L.Rs.
of deceased R-2)

PRAYER: Cross Objection under Order 22 Rule 41 of Code of Civil Procedure of 1908 to allow the Cross Objection and dismiss the S.A.No.2031 of 2002 with cost of the respondents 1 to 4/Cross Objectors.

For Cross Objectors : Mr.V.Meenakshi Sundaram

For Respondents : No appearance for R1,R3, 11 to 13

For Respondent 2 ; Died

For Respondents 4 to 6 : Dismissed as abated

For Respondents 7 to 10 : Given up

JUDGMENT

The learned counsel appearing for the Cross-Objectors submits that the death of the respondents 4 to 6 in Cross-Objection/Respondents 5 to 7 in Second Appeal was already reported to the Court in the main Second Appeal.



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2. It appears that the Cross-Objection is filed by the defendants 1 to 4, questioning the decree for partition granted in favour of the respondents 1 to 3 in respect of Item No.2. The respondents 4 to 6 are sharers and, in view of the death of the respondents 4 to 6, the decree for partition granted in favour of the respondents 1 to 3 had attained finality in respect of some of the sharers. Therefore, without setting aside the abatement caused to the cross-objection by the death of the respondents 4 to 6, the cross-objectors cannot proceed with the Cross-objection on merits. As such, when the Cross-Objection is abated as against some of the respondents/sharers, the entire Cross-Objection is deemed to be abated. Accordingly, this Cross-Objection is dismissed, as abated. No costs.

11.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

Section Officer,
V.R. Section,
Madurai Bench of Madras High Court.

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