



A.S.No.200 of 2004

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2024

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

A.S.No.200 of 2004

and

Cross Obj (MD) No.25 of 2006

A.S.No.200 of 2004:

1.S.Ramachandran (Died)

2.Pappammal

...Appellants

(2nd appellant is brought on record as LR of the deceased sole appellant, vide Court order, dated 19.10.2023 made in C.M.P.(MD)Nos.11305 and 11306 of 2023 in A.S.No. 200 of 2004)

Vs.

1.K.S.G.Subburaj (Died)

2.S.Tamilselvan Alias Subba Reddy (Died)

(2nd respondent is brought on record as LR of the deceased 1st respondent, vide common order, dated 02.11.2023, made in C.M.P.(MD) Nos.11308, 11309 and 11311 to 11313 of 2023 in A.S.No.200 of 2004)

3.Sasikala Devi

4.Valarmathi Devi

5.Malarvizhi Devi

6.Kothaiselvi

7.Lakshmi Prabha

(respondents 3 to 7 are also brought on record as LR of the deceased 1st respondent, vide common order, dated 02.11.2023, made in C.M.P.(MD) Nos.11308, 11309 and 11311 to 11313 of 2023 in A.S.No.200 of 2004)

8.S.T.Kavitha

9.S.T.Guruprasath

10.S.T.Guruprasanna

(respondents 8 to 10 are brought on record as LR of the deceased 2nd respondent,

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vide common order, dated 02.11.2023, made in C.M.P.(MD) Nos.11308, 11309 and 11311 to 11313 of 2023 in A.S.No.200 of 2004) ...Respondents

PRAYER: This Appeal Suit is filed under Section 96 of C.P.C., against the Judgment and Decree, dated 08.12.2003, made in O.S.No.562 of 1992 on the file of Additional Sub Judge, Dindigul.

For Appellants : Mr.S.Vellaichamy

For Respondents : (*) **Mr.A.Sivaji**

Cross Obj (MD) No.25 of 2006:

- 1.K.S.G.Subburaj (Died)
- 2.S.Tamilselvan @ Subba Reddy (Died)
- 3.Sasikala Devi
- 4.Valarmathi Devi
- 5.Malarvizhi Devi
- 6.Kothaiselvi
- 7.Lakshmi Prabha

(cross objectors 2 to 7 are brought on record as LR's of the deceased sole cross objector, vide Court order, dated 16.08.2021, made in C.M.P.(MD) Nos.5332, 5334, 5336, 5337, 5338, 5339, 5340, 5341 and 5342 of 2021 in Cross Obj (MD) No.25 of 2006)

- 8.S.T.Kavitha
- 9.S.T.Guruprasath
- 10.S.T.Guruprasanna

...Cross Objectors

(cross objectors 8 to 10 are brought on record as LR's of the deceased 2nd cross objector, vide Court order, dated 16.08.2021, made in C.M.P.(MD) Nos.5332, 5334, 5336, 5337, 5338, 5339, 5340, 5341 and 5342 of 2021 in Cross Obj (MD) No.25 of 2006)

Vs.



A.S.No.200 of 2004

1.S.Ramachandran (Died)

2.Pappammal

...Respondents

(R2 is brought on record as LR of the deceased sole respondent, vide Court order, dated 16.08.2021, made in C.M.P.(MD) Nos.5332, 5334, 5336, 5337, 5338, 5339, 5340, 5341 and 5342 of 2021 in Cross Obj (MD)No.25 of 2006)

PRAYER: This Appeal Suit is filed under Order XLI, Rule 22 read with Section 96 (1) and (2) of C.P.C., against the Judgment and Decree, dated 08.12.2003, made in O.S.No.562 of 1992 on the file of I Additional Sub Judge, Dindigul.

For Cross Objectors: (*) **Mr.A.Sivaji**

For Respondents : Mr.S.Vellaichamy

COMMON JUDGMENT

A partition suit was filed between the legal heirs of the parties who had filed O.S.No.437 of 2004. The partition suit was decreed. Aggrieved over the same, the defendant had preferred A.S.No.56 of 2010 on the file of the Hon'ble Division Bench of this Court.

2. The parties have settled the issue in the Mediation and Conciliation Centre. In the mediation, it has been agreed that the A.S.No.200 of 2004 would be withdrawn. Based on the mediation report, the A.S.No.200 of 2004 is listed before this Court under the caption “for withdrawal”. Therefore, the appellant is permitted



A.S.No.200 of 2004

to withdraw the appeal.

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3. The Learned Counsel appearing for the respondents submitted that the order in W.P.No.2293 of 2005 has stated that the parties shall not register any document for the Survey No.31/4, Manaloor Village, Perumparai, measuring 9.19 acres, pending disposal of A.S.No.200 of 2004. Now the A.S.No.200 of 2004 is dismissed as withdraw and the protection granted in W.P.No.2293 of 2005 ought to be extended.

4. Furthermore it is seen that pending A.S.(MD)No.56 of 2010, C.M.P. (MD)No12715 of 2023 was filed to implead the legal representatives of Kothai Ammal and the same was dismissed. Against the dismissal of C.M.P.(MD)No12715 of 2023, a review application was filed. In the review application, the Additional Registrar (Judicial) was directed to conduct an enquiry under Order XXII Rule 5 of C.P.C., to determine who are the legal representatives of the deceased Kothai Ammal. After the said enquiry only, the A.S.(MD)No.56 of 2010 will be taken up for final hearing. Thereafter, only mediation can be recorded.

()5. Therefore the said protection granted in W.P.No.2293 of 2005 is modified**



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as “the parties shall not register any document for Survey No.31/4, Manaloor Village, Perumparai, measuring 9.19 acres, pending disposal of A.S.No.56 of 2010.”

6. Further the parties are directed to adhere to the terms of agreement submitted before the Mediation and Conciliation Centre. Registry is directed to return the original records to the Lower Court.

7. With the above said observations, the appeal suit and the cross objection are disposed of. No costs.

Sd/-

Assistant Registrar (CS-III)

Sd/-

Assistant Registrar (CS-I)

(*)Corrected as per the order dated 04/11/2024 in A.S.No.200 of 2004 and Cross Obj (MD) No.25 of 2006 paragraph Nos. 5 & 6 inserted here.

Sd/-

Assistant Registrar (A.E)

// True Copy //

05 /11/2024

Sub Assistant Registrar
(CS- I, II, III, IV)

Tmg



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To
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(*) To be Substituted to the order already despatched on 29.10.2024

The I Additional Subordinate Judge, Dindigul.

Copy to:

1.The Assistant Registrar,
Court Officer Section,
Madurai Bench of Madras High Court. Madurai.
(for the purpose of refund of Court fee)

2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court. Madurai.(2 Copies).

+1 CC to M/s.S.VELLAICHAMY, Advocate (SR-30576[F] dated 28/06/2024)

A.S.No.200 of 2004

and

Cross Obj (MD) No.25 of 2006

28.06.2024

SI -(08.08.2024) 6P/ 6C

RD(29/10/2024)6P/ 6C

RD(05/11/2024)6P/ 6C

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