



S.A.No.1408 of 2003

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **29.10.2024**

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

**S.A.No.1408 of 2003
and
C.M.P.No.12701 of 2003**

N.Rajaian

... Appellant/Respondent/
Defendant

Vs.

Mr.Chellian (Deceased)

- 1.Mr.Russel (Died)
- 2.Amirtha Bai
- 3.Ebanesarthrisha
- 4.Immanuvel Nebisa

(Respondents 2 to 4 are brought on record
as LR's of the deceased sole respondent
vide Court order dated 20.01.2022)

Prayer: Second Appeal filed under Section 100 of the Code of Civil Procedure against the judgment and decree made in A.S.No.21 of 1996, on the file of the I Additional Sub-Court (Camp), Padmanabhapuram, dated 28.09.2001 setting aside the judgment and decree made in O.S.No.248/1986, on the file of the Additional District Munsif, Padmanabhapuram, dated 20.09.1995.



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For Appellant	: Mr.R.Devaraj
For R1	: Died
For R3 & R4	: Dispensed with
For R2	: Mr.V.Janakiramulu

JUDGMENT

Heard the learned counsel appearing for the appellant and the learned counsel appearing for the second respondent.

2. When the matter was taken up for hearing on 12.09.2024 at the request of the learned counsel appearing for both sides, this Court passed the following order:-

"The learned counsel appearing for the appellant and the respondents submitted that there is a possibility of amicable settlement between the parties and requested to refer the matter before the District Mediation Centre at Nagercoil.

2. Considering the said request, the matter is referred to the District Mediation Centre at Nagercoil and the Principal District Judge, Nagercoil at Kanyakumari shall appoint a Senior Counsel as Mediator in this matter and the parties are directed to appear before the District Mediation Centre at Nagercoil on 23.09.2024 without fail.



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3. The Registry is directed to send the papers to the District Mediation Centre at Nagercoil forthwith. The Principal District Judge, Nagercoil at Kanyakumari is directed to return the bundle to the Registry after completing the mediation process.

4.Post the matter on 30.09.2024."

3. Today, when the matter is taken up for hearing, the learned counsel appearing on either side submits that the matter has been amicably settled between the parties before the Kanniyakumari District Mediation and Conciliation Centre, District Court Campus, Nagercoil. The District Co-Ordinator, Principal District and Sessions Judge, District Mediation and Conciliation Centre, Kanniyakumari at Nagercoil has sent a report, dated 28.10.2024. The Mediation Report is found to be signed by both the parties along with the counsel on record and a scanned reproduction of the same is as follows:



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SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT entered into on 22-10-2023
between

Rajaram S/Venugopal

and

Amirtha Bai W/o M.R. Ramesh

WHEREAS

1. Disputes and difference had arisen between the Parties hereto and S.A. 1408/2003 was filed on 21-7-2003 before The Honorable Head COURT OF DISTRICT MADRAS Justice M. Subramanian
2. The matter was referred to mediation / conciliation vide an order dated 30-9-2024 passed by The Honorable Justice M. Subramanian Baraka & Mediators High Court
3. The parties agreed that in this case Mrs. P.R. Jeyaraj would act as their Mediator / Conciliator
4. Several meetings were held during the process of Mediation / Conciliation from 21-9-2024 to 22-10-2024 and the parties have with the assistance of the Mediator / Conciliator voluntarily arrived at an amicable solution resolving the above mentioned disputes and differences.
5. The parties hereto confirm and declare that they have voluntarily and their own free will arrived at this Settlement Agreement in the presence of the Mediator / Conciliator.



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The following settlement has been arrived at between the Parties hereto:

A. The parties agreed to submit the matter amicably. They intended to take a common pathway for the use of appellant and respondent as per the "commission report" near MN' portion on the ~~western~~ ^{southern} side of the primary health centre.

The width of the pathway to be taken is with 8 feet width. Both parties accepted to use the pathway as their common pathway.

They accepted to execute as per the line fixed by the High Court.

By signing this Agreement the Parties hereto state that they have no further claims or demands against each other with respect to _____ (Case

No. _____) and all disputes and difference in this regard have been amicably settled by the Parties hereto through the process of conciliation / Mediation.

DATE: 20/11/2023

PARTY'S SIGNATURE

:(Petitioner)

Adinatharani
(Respondent)

COUNSEL'S SIGNATURE

:(Petitioner)

M. Subramanian
(Respondent)



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DISTRICT MEDIATION CENTRE
KANNIYAKUMARI DISTRICT
MEDIATION REPORT

Mediation File No : 1320/2003
Court Case No : S.A. 1408/2003
Referred By : The Hon'ble District and Sessions Judge
Date of Referral : 24-9-2024
Name of the Mediator(s) : Adv. P. R. Jeyaraj, B.Sc., B.L., M.A., LL.M.
Dates of Mediation Sessions : 24-9-24; 25-9-24; 26-9-24;
27-9-24; 17-10-24; 18-10-24;
21-10-24; 22-10-24.
Name of the Petitioner(s) : N. Rajaram
Name of the Respondent(s) : Subbiah Chennai, Subburaj (Sgt) Lt. Aris the
Bai, S. Ebanan, Jeyaraj & Jeyaraj, Nalika
Counsel for Petitioner(s) : Adv. S. R. Siva Raj
Counsel for Respondent(s) : Adv. V. Samadhi Ramulu

1. Mediation completed. Agreement enclosed ✓
or
2. Mediation completed. No agreement was reached.
or
3. Petitioner(s) / Plaintiff(s) only appeared.
Willing / not willing for mediation.
or
4. Respondent(s) / Defendant(s) only appeared.
Willing / not willing for mediation.
or
5. Both Parties were absent consecutively for three hearings.
Mediation Could not be commenced.

Dated : 22-10-2024.

Signature of the Mediator(s)



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4. It is made clear that the common pathway for the use of appellant and respondent as per the Commission report are 'MN' portion on the southern side of the Primary Health Centre. The width of the pathway to be taken is with 8 feet width. Both parties accepted to use the pathway as their common pathway.

5. Accordingly, the Second Appeal is disposed of in terms of the Mediation report, dated 28.10.2024 and there will be a decree accordingly. The Mediation Report, dated 28.10.2024, shall form part of the decree. No costs. Consequently, connected miscellaneous petition is closed.

29.10.2024

NCC : Yes/No
Index : Yes/No
am



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To

- 1.The I Additional Sub-Court (Camp),
Padmanabhapuram.
- 2.The Additional District Munsif,
Padmanabhapuram.
- 3.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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V.BHAVANI SUBBAROYAN, J.

am

Judgment made in

S.A.No.1408 of 2003

28.10.2024