



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-04-2025

CORAM

**THE HONOURABLE MR JUSTICE SATHI KUMAR SUKUMARA
KURUP**

**C.M.P No. 5531 of 2025 in
S.A.No.918 of 2008**

Duraisamy (Deceased)
S/o. Rasappa Gounder, Alampalayam,
Karithottampalayam Village,
Sathyamangalam Taluk, Erode. and 3
Others

1. Selvaraj
S/o. Duraisamy, Alampalayam,
Karithottampalayam Village,
Sathyamangalam Taluk,
Erode.

2. Bakiyalakshmi
W/o. Subramani, Akkarai Sengapalli,
Wakkinangkombai, Annanur Taluk,
Coimbatore.

3. Indira
W/o. Chinnaraj, Irubara Village,
Pethikuttai (PO), Mettupalayam Taluk,
Coimbatore.

Appellant(s)



Vs

1. A.M.Thangaraj
S/o. Maranna Gounder, Olaikaran
Thottam, Karithottampalayam Village,
Sathyamangalam Taluk, Erode.Erode

Respondent(s)

PRAYER

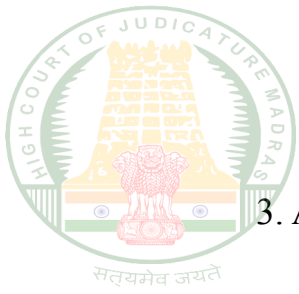
Civil Miscellaneous Petition filed to pass an order restoring the second appeal in S.A.No.918 of 2008 dismissed for default on 07.02.2025.

For Appellant(s): R.Manickavel

ORDER

This Civil Miscellaneous Petition is filed to restore the Second Appeal in S.A.No.918 of 2008.

2. The learned Counsel for the Appellant would submit that the matter was referred to Mediation. In the mediation, the matter was almost settled. An interim report was sent to this Court stating that the matter will be settled if the disputed property is measured with the help of a Surveyor with relevant records of both the parties.



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3. Accordingly, the Mediation Report was sent to this Court.

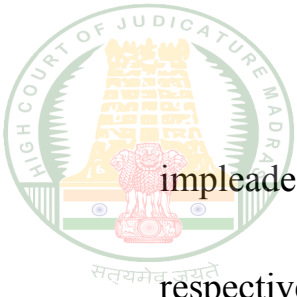
4. At that stage, there was no representation for the Appellant. The learned Counsel for the Respondent was present and again it was adjourned under the caption '*for dismissal*'.

5. On 07.02.2025, the then Judge of this Court, Justice S.S.Sundar had dismissed the Second Appeal stating that there was no representation for the Appellant inspite of the fact that the case came up for hearing under the caption '*for dismissal*'.

6. Now, the learned Counsel for the Appellant seeks to allow the Civil Miscellaneous Petition.

7. C.M.P.No.5531 of 2025 is allowed on condition that the entire expenses for measuring the property with the aid of a Surveyor and an Advocate Commissioner with the documents relied by both the parties is to be borne by the Appellant who are the Defendants before the learned District Munsif, Sathyamangalam.

8. Now, the Defendant died. The legal heirs of the Defendant had been



impleaded in the Second Appeal. Therefore, they are directed to engage their respective Counsels before the trial Court and measure the property after issuing notice to both the parties.

9. The learned District Munsif, Sathyamangalam is directed to issue notice to both the parties and direct them to proceed with measuring the properties by appointing a local Counsel /Advocate from the local Bar as an Advocate Commissioner for which the expenses are to be met by the Defendants. The report of the Surveyor and the Advocate Commissioner shall be sent to this Court for recording the settlement within a reasonable period of three months.

10. Accordingly, the Civil Miscellaneous Petition is allowed with the above conditions.

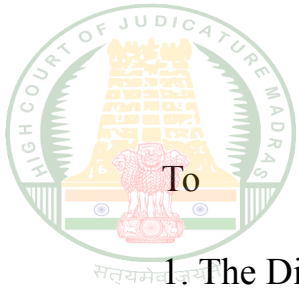
16-04-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



To

CMP No. 5531 of 2



1. The District Munsif, Sathyamangalam

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2. The Additional District Judge,
Fast Track Court-II,
Gobichettipalayam.

3. A.M.Thangaraj



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CMP No. 5531 of 2



SATHI KUMAR SUKUMARA KURUP J.

Shl

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S.A.No.918 of 2008**

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