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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.01.2025

CORAM

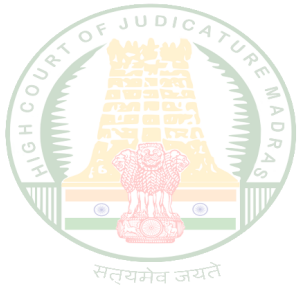
THE HON'BLE MRS.JUSTICE S.SRIMATHY

S.A(MD)No. 185 of 2012
and M.P(MD)No.1 of 2012
and C.M.P(MD)No.18801 of 2024

1. K.M.Jinnah(Died)
2. Sahul Hameed
3. Nasar Ali
4. Abdul Rahim
5. Balu
6. Rajiya Begum
7. Abdullah
8. Hajirabeevi
9. Rasitha Begum
10. Barakath Kani
11. Noorunisha

... Appellants

[Appellants 6 to 11 are brought on record as LRs of the deceased 1st Appellant vide Court order, dated 16.12.2024]



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Vs.

A/m.Dharmaraja @ Dhrowpathi Ammal Temple, Ayyampatti,
Represented by its fit person/Executive officer,
having his office at A/M.Kothandaramar Temple.
Chavadi Agraharam, Ayyampettai Town,
Thiruvaiyaru Munsif.

... Respondent

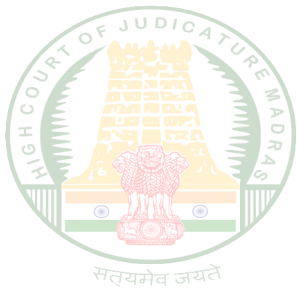
PRAYER: Second Appeal is filed under Section 100 of Civil Procedure Code, to set aside the Decree and Judgment passed in A.S.No.72 of 2010 on the file of the Learned Additional Subordinate Judge, Thanjavur, dated 17.06.2011 reversing the Decree and Judgment passed in O.S.No.19 of 2006 on the file of the District Munsif Court, Thiruvaiyaru, dated 28.04.2010.

For Appellants : M/s.V.K.Vijayaragavan

For Respondent : M/s.V.Chandrasekar

JUDGEMENT

This Second Appeal is filed by the defendants in the suit to set aside the Decree and Judgment dated 17.06.2011 passed in A.S.No.72 of 2010 on the



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file of the Learned Additional Subordinate Judge, Thanjavur, reversing the Decree and Judgment dated 28.04.2010 passed in O.S.No.19 of 2006 on the file of the District Munsif Court, Thiruvaiyaru.

2. The defendants in the suit are the appellants herein and the plaintiff in the suit is the respondent herein. For the sake of convenience, the parties shall be referred to as plaintiff and defendants as per the ranking in the suit.

3. The suit in O.S.No.10 of 2006 was filed by the Temple to declare that the suit properties are belonging to the Temple and recovery of possession. The said suit was dismissed. Against the said dismissal, the Temple has preferred an appeal in A.S No.72 of 2010 and the same was allowed. Aggrieved over the same, the defendants have preferred this Second Appeal.

4. Pending this Second appeal. The defendants have filed C.M.P(MD)No.18801 of 2024 to appoint an Advocate Commissioner with a



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direction to measure the suit properties with the help of the qualified surveyor with reference to the defendants' title deed, Ex.B.1 to Ex.B.4. The said petition was allowed. However, the further proceedings ought to be carried out by the Trial Court. Accordingly, this matter is remitted back to the Trial Court.

5. Since the Temple is claiming right over the property and the temple is armed with favourable judgment by the Appellate Court, then the defendants are liable to pay rent to the suit land. Therefore, the defendants are directed to pay Rs. 30,000/- to the credit of O.S.No.19 of 2006. The same shall be deposited in anyone of the Nationalized Bank in the interest accruing deposit, without prejudice to the rights of the defendants. The Learned District Munsif, Thiruvaiyaru, is directed to complete the suit proceedings within a period of Six months from the date of receipt of a copy of this judgment.



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6. With these directions this Second Appeal is disposed of.

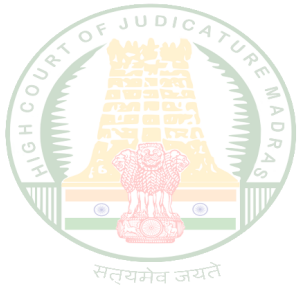
Accordingly, C.M.P(MD)No.18801 of 2024 is allowed and M.P(MD)No.1 of 2012 is closed. No Costs.

07.01.2025

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

To

1. The Additional Subordinate Court, Thanjavur,
2. The District Munsif Court, Thiruvaiyaru.
3. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

KSA

Order made in
S.A(MD)No.185 of 2012

07.01.2025