



SA(MD)No.244 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 28.07.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ARUL MURUGAN

S.A.(MD)No.244 of 2024

and

C.M.P(MD)No.4732 of 2024

Omanakutty Amma

... Appellant / Respondent / Plaintiff

Vs

Sreedharan Nair (Died),

Indira

...Respondent / 2nd Appellant / 2nd Defendant

Prayer : This Second Appeal is filed under Section 100 C.P.C., against the judgment and decree dated 03.11.2023 of the learned Additional District Judge of Kuzhithurai, made in A.S.No.31 of 2013 on his file, reversing the judgment and decree dated 08.01.2013 of the learned Subordinate Judge of Kuzhithurai, made in O.S.No.29 of 2007 on his file.

For Appellant

: Mr.K.N.Thambi

For Respondent

: Mr.C.Godwin



SA(MD)No.244 of 2024

JUDGMENT

WEB COPY

The Second Appeal is filed by the plaintiff in the suit. Originally, the suit was filed by the plaintiff Omanakutty Amma as against her divorced husband / first defendant Sreedharan Nair and the daughter of Sreedharan Nair born through the first wife.

2. During the marriage that was in subsistence, the plaintiff along with the first defendant had purchased the suit property. However, after their separation, the first defendant had settled the suit property in entirety in favour of the second defendant. The plaintiff filed a suit in O.S.No.29 of 2007 on the file of the Subordinate Judge, Kulithurai, seeking for partition. By judgment and decree dated 08.01.2013, O.S.No. 29 of 2007 came to be decreed granting a preliminary decree in favour of the plaintiff. However, the appeal filed by the defendant in A.S.No.31 of 2013 on the file of the learned Principal District Judge, FAC of Additional District Judge, Kuzhithurai, came to be allowed by judgment and decree dated 03.11.2023. Assailing the reversal of the decree, the plaintiff had preferred the above appeal.



SA(MD)No.244 of 2024

WEB COPY

3. When arguments was let in, in the appeal, it was felt by the learned counsels on either side that since the plaintiff is 91 years old and the first defendant also died and the second defendant also now retired, it would be prudent to sort out the issue among themselves, pursuant to which the parties have discussed and had mutually agreed to sort out the dispute among themselves.

4. In view of the above negotiations, the respondent herein had come forward to pay a sum of Rs.8,00,000/- (Rupees Eight Lakhs only) in favour of the appellant to settle the issue which is pending in the above Second Appeal.

5. Learned counsel for the respondent today hands over a Demand Draft for a sum of Rs.8,00,000/- dated 19.07.2025 drawn on Canara Bank, Kuzhithurai Branch, in favour of the appellant.

6. The learned counsel for the appellant on receipt of the Demand Draft had also filed an affidavit of the appellant dated 23.07.2025, whereby the receipt of the Demand Draft is acknowledged and in view of



SA(MD)No.244 of 2024

the receipt of the amount, the issue having been sorted out, he seeks permission of this Court to withdraw this Second Appeal.

7. Recording the above, this Second Appeal is dismissed as withdrawn. However, there shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

28.07.2025

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

pnn

To

1. The Additional District Judge of Kuzhithurai.
2. The Subordinate Judge of Kuzhithurai.
3. The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



SA(MD)No.244 of 2024

G.ARUL MURUGAN, J.

pnn

S.A.(MD)No.244 of 2024
and
C.M.P(MD)No.4732 of 2024

28.07.2025