

AS(MD). No.159 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 19.09.2025

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
AND
THE HONOURABLE Mr.JUSTICE R.VIJAYAKUMAR

AS. (MD). No.159 of 2016
and CMP(MD) No.10315 of 2016

- 1.M.Jamal Mohaideen (died)
- 2.Mustrijan Begum
- 3.J.Jaifun
- 4.M.J.Sheerin Banu
- 5.M.J.Yasmine
- 6.M.J.Farook
- 7.M.J.Shabeer
- 8.M.J.Kaleel Ahamed

... Appellants

**(Appellants 3 to 8 were brought on record as LR's of the deceased
1st appellant vide order dated 06.12.2024 in CMP Nos.10156,
10159, 10160 of 2019, 34 of 2021, 9748 and 9749 of 2023)**

Vs

- 1.Abidal Beevi (died)
- 2.Ayesha Mariyam
- 3.Mohamed Nasurdeen
- 4.Basheer Ahamed
- 5.Naseera Banu
- 6.Barveen Banu
- 7.Mumthaj Begum
- 8.Jafarullah Khan
- 9.Mubarak
- 10.Akbar



AS(MD). No.159 of 2016

- 11.Nageera
- 12.Anverdeen
- 13.KAdar Ali
- 14.Salma Beevi
- 15.Dhilsath Begum
- 16.Sowrammal (died)
- 17.Sikkender
- 18.Kaja
- 19.Fakrudeen
- 20.Badhusha
- 21.Mohamed Sha
- 22.A.Alaudeen
- 23.M.Ashak Ali Bathusha
- 24.A.Aseela
- 25.Imran Khan
- 26.P.Chinnadurai
- 27.Peer Ubayathulla
- 28.Fathima Semina
- 29.Bhima
- 30.K.Azhar Mohideen
- 31.Shajini
- 32.Yasmin

... Respondents

(R23 died and R7 who is already on record is recorded as LR of the deceased R23 vide order dated 06.12.2024 in CMP(MD) No. 10156, 10159, 10160 of 2019, 34 of 2021, 9748 and 9749 of 2023)

Respondents 24 and 25 are also brought on record as LR of the deceased 23rd respondent vide common order dated 06.12.2024 in CMP(MD) Nos. 10156,10159, 10160 of 2019, 34 of 2021, 9748 and 9749 of 2023)

Respondents 26 to 29 are also brought on record as LR of the deceased 16th respondent vide common order dated 06.12.2024 in CMP(MD) Nos. 10156,10159, 10160 of 2019, 34 of 2021, 9748 and 9749 of 2023)

Respondents 30 to 32 are also brought on record as LR of the deceased 1st respondent vide common order dated 06.12.2024 in CMP(MD) Nos. 10156,10159, 10160 of 2019, 34 of 2021, 9748 and 9749 of 2023)



AS(MD). No.159 of 2016

WEB COPY

PRAYER :-Appeal suit filed under section 96 r/w Order 41 Rule 1 of the Code of Civil Procedure against the judgment and decree dated 01.02.2016 in OS No.34 of 2014 on the file of the IV Additional District Court, Madurai.

For Appellants : Mr.M.Ajmal Khan
Senior counsel for
M/s.Ajmal Associates

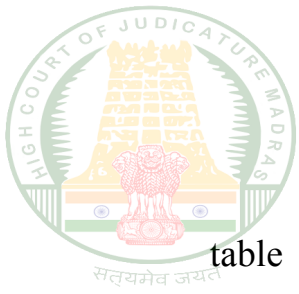
For Respondents : Mr.V.Ramakrishnan for R2 to R6 &
R30 to R32
R1,R16 and R23 died
R24 to R29 batta not filed

JUDGMENT

(Judgment of the Court was delivered by C.V.KARTHIKEYAN, J.)

First, second and third plaintiffs in OS No.34/2014 on the file of the 4th Additional District Court at Madurai are the appellants herein. OS No.34/2014 has been filed seeking a judgment and decree against the defendants for partition and separate possession of the suit schedule properties.

2. Along with the plaint, the plaintiffs have also given the description of the properties and they have also appended the genealogy



AS(MD). No.159 of 2016

table and more specifically, the plaintiffs have also given the list of documents as required under Order VII Rule 14 of the Code of Civil Procedure. A perusal of the original plaint reveals that in that list, they had mentioned 18 documents. Thereafter summons had been served on the defendants and counsels entered appearance for 1-6th defendants and also for 16th defendant. The 7-15th defendants, 17-22 defendants remained exparte. The defendants for whom the counsels entered appearance, did not file their written statements.

3. The learned District Judge then proceeded to record the evidence of P.W.1. Proof affidavit was filed by P.W.1 and in the proof affidavit, the list of documents relied on was mentioned. P.W.1 had relied on eighteen documents as stated in the plaint and also one further document, namely, the reply notice given by the 2-7th defendants. P.W.1 grazed the witness box and identified the documents and Ex.A1 to A18 were also marked. The matter was then adjourned for cross-examination on behalf of the defendants. The marking of the documents by P.W.1 was on 30.10.2015.

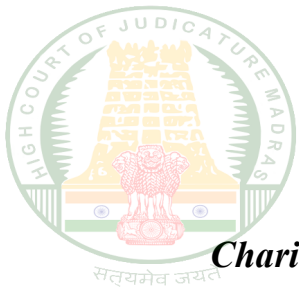


AS(MD). No.159 of 2016

4. On 01.02.2016, the learned District Judge passed the judgment, wherein, he had observed that though the plaintiffs have stated that the title documents are with the defendants, they had not stated the particulars of the title documents. It was further stated in the judgment that the plaintiffs are bound to produce all the documents relating to the cause of action but the plaintiffs had only produced the patta with respect to the suit properties and that the patta was not sufficient to hold that the suit properties belonged to the ancestor, Mohideen Rawther.

5. The learned District Judge then examined Order VII Rule 14 of the Code of Civil Procedure and stated that if the plaintiffs were not in possession of the title documents and if those documents were registered documents, then the plaintiffs should have filed the registration copies. It was further observed that no explanation had been given for not filing the registration copies of the documents as provided under Order VII Rule 14(2) of the Code of Civil Procedure.

6. The learned Judge then relied upon the judgment of the Hon'ble Supreme Court reported in **2012 (4) CTC 308 (Church of Christ**



AS(MD). No.159 of 2016

***Charitable and Educational Charitable Society represented by
Chairman v. Ponmamman Educational Trust represented by
Chairperson/Managing Trustee*** and proceeded to reject the suit under
Order VII Rule 11(d) of the Code of Civil Procedure.

7. We are constrained to point out that Order VII Rule 11(d) of the Code relates to rejection of a plaint when it is barred by law. In the judgment referred by the learned District Judge, the Hon'ble Supreme Court had found that the list of documents was not appended at all with the plaint.

8. In the instant case, the plaintiffs had given the list of 18 documents under Order VII Rule 14(1) of the Code and they had also filed all the documents and the documents were marked as Ex.A1 to Ex.A18 during the course of trial. The learned District Judge had relied on a judgment, which related to a case where no list of documents had been filed. The learned District Judge had failed to note that the plaintiffs had produced the documents. The matter was posted for cross-examination on behalf of the defendants. Even if the defendants had been



AS(MD). No.159 of 2016

set exparte, they had a right to cross-examine the witness, who tendered on behalf of the plaintiffs.

9. We hold that the suit should not have been rejected at the threshold, particularly, after evidence had been recorded. We hold that the rejection of the suit on the ground that it was barred under Order VII Rule 11(d) of the Code is not proper.

10. We therefore, set aside the judgment of the learned District Judge dated 01.02.2016 in OS No.34/2014 and remand the matter for fresh consideration before the IV Additional District Court, Madurai. The matter is remanded back at the stage of completion of chief-examination of P.W.1. If the defendants choose, they could participate in the trial proceedings. They may also choose not to participate in the trial proceedings. However, a responsibility is cast on the Presiding Officer to examine the matter on merits in accordance with law and proceed further.

5. Accordingly, the Appeal Suit stands allowed. Registry is directed to return the original records received from the Court below



AS(MD). No.159 of 2016

back to the IV Additional District Court, Madurai on or before 14.10.2025. The plaintiffs and the defendants are directed to appear before the IV Additional District Court on 17.10.2025. No costs. Consequently connected Miscellaneous Petition is closed.

[C.V.K,J]

[R.V,J]

19.09.2025

NCC : Yes/No

Index : Yes/No

RR

To

1.IV Additional District Judge, Madurai.

2.VR Section

Madurai Bench of Madras High Court,
Madurai.



WEB COPY



AS(MD). No.159 of 2016

C.V.KARTHIKEYAN J.
AND
R.VIJAYAKUMAR, J.

RR

ORDER
IN
AS(MD) No.159 of 2016

Date : 19.09.2025