



S.A.(MD)No.168 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 15.04.2025

CORAM:

THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN

S.A.(MD)No.168 of 2025

and

C.M.P(MD)Nos.6456 and 6457 of 2025

B.Dhanuskodi Naicker (died),
Umamaheswari (died)
D. Vijayaramu (died)

1. Chandrasekaran.
2. D.Sivakumar
3. R.Periyalwar
4. P.Sriram Gopal
5. P.Govardhan
6. V.Chandira
7. V.Pavithra
8. V.Kavitha
9. V.Sathya

... Appellants

Vs.

1. S.R.Rukmani
2. V.R.J.Sanmuga Priya
3. V.R.Bargavi
4. K.Ramasubbu
5. K.Jayavel
6. K.Natchiyar

... Respondents



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Prayer: The Second Appeal has been filed under Section 100 of C.P.C, to set aside the Judgment and Decree dated 05.03.2016 in A.S.No.14 of 2015 on the file of the Additional District Court, Viruthunagar at Srivilliputtur reversing the Judgment and Decree dated 05.10.2013 passed in O.S.No.66 of 2010 on the file of the Sub-Court Aruppukottai.

For Petitioner : Mr.T.Thirumurugan

For Respondents : Mr.P.Santhosh Kumar

ORDER

The appellants 1 and 2 namely D.Chandrasekaran and D.Sivakumar are the plaintiffs 4 and 5 and the deceased appellants namely B.Dhanuskodi Naicker, Umamaheswari and D.Vijayaramu are the plaintiffs 1 to 3 in O.S.No.66 of 2010 on the file of the Sub Court, Aruppukottai, who have jointly filed a suit against the respondents 1 to 7. The 4th respondent namely V.R.Krishnan died during the pendency of the suit.



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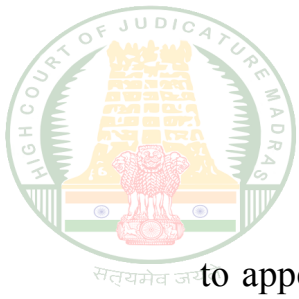
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2. The learned Trial Judge, after considering the entire evidence on record decreed the suit by giving $1/3^{\text{rd}}$ share to all the plaintiffs. Challenging the same, the defendants 1 to 3 and 5 to 7 filed an appeal suit in A.S.No.14 of 2015. The learned Appellate Judge reduced the share to the extent of $8/48^{\text{th}}$ share to the plaintiffs.

3. Aggrieved by the same, this appeal was preferred before this Court with delay. During the pendency of the delay petition the parties have arrived at a compromise.

4. Today the parties are present before this Court. All the parties identity was affirmed by the counsel on record and this Court also verified their identity through the Aadhar Card.

5. It is represented that the appellant no.4 is residing in Australia and the compromise memo was sent to Australia and signature was obtained from the 4^{th} appellant in the compromise memo. The remaining parties have also affirmed the compromise. The 1^{st} respondent is permitted



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to appear through Video Conferencing (VC) and he has also affirmed the terms of the compromise.

6. The terms of the compromise memo are as follows:-

1. *There are totally 15 schedule of properties i.e Schedule of Properties 1 to 14 belongs to one Ramalinga Naicker and 15th Schedule of Property belongs to his wife namely Seeniammal;*
2. *In which the Plaintiffs in Original Suit in O.S.No.66 of 2010 were allotted 1/3rd share over the schedule of properties;*
3. *The Appellants and the Respondents have agreed that the partition can be made as per the judgment in O.S.No. 66/2010 on the file of learned Sub-Court, Aruppukottai, i.e the Plaintiffs were allotted 1/3rd share over the schedule of properties;*
4. *But it is agreed by the Plaintiffs in O.S. and Appellants herein that they relinquish their 1/3rd right over the 5th schedule of property to the respondents;*
5. *Both the parties have agreed that each party shall not claim any right over the property allotted to the other as per the terms of this memo. All the parties in the above compromise memo reserve their rights to evict the tenants if so any in the Schedule of Properties 1 to 15 and inview of the same final decree may be pleased to pass O.S.No.66/2010 on the file of learned Sub-Court, Aruppukottai;*
6. *That the Partition deed and mortgage deed executed and registered on 16.06.2010 before the filing of suit in O.S.No.*



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66 of 2010 deed becomes null and void. All the respondents herein give their consent and acknowledge the partition deed and mortgage deed executed and registered on 16.06.2010 stands null and void through this compromise memo.

7. As per the compromise memo, defendants in the suit agreed to give 1/3rd share to the plaintiffs and relating to Item No.5 of schedule property (House Property), it is agreed to give the same to the defendants. The parties seek suitable order to be passed before this Court relating to Item No.5 of schedule property (House Property) in the final decree also.

8. Considering the said submission this Court passes the following preliminary decree:-

- i. The appellants/plaintiffs are jointly entitled to 1/3rd share in all suit schedule property except Item No.5 of schedule property (House Property). Item No.5 of schedule property (House Property) is relinquished by the appellants/plaintiffs and the same is allotted to the respondents/defendants;
- ii. Hence, Item No.5 schedule property (House Property) is hereby, deleted in the final decree in O.S.No.66 of 2010;



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- iii. With these terms of the compromise, Second Appeal is allowed. Registry is directed to prefer the compromise decree in terms of the compromise memo;
- iv. Registry is directed to keep the compromise memo as part and parcel of this order. The learned execution court is directed to dispose of the EP within a period of 6 months from the date of receipt of a copy of this order;
- v. No costs. Consequently, connected miscellaneous petitions are closed.

15.04.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm

Note: Issue Order Copy on 21.04.2025



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To

1. The Additional District Court,
Viruthunagar at Srivilliputtur.
2. The Sub-Court, Aruppukottai.
3. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.



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K.K. RAMAKRISHNAN, J.

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