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SA.No.409 of 2002

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.06.2025**

CORAM:

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

S.A.No.409 of 2002

1. M.Sivaraman (Died)

2. Saroja

3. Veeraragavan

4. Vijayalakshmi

5. Rajeswari

6. Maheswari

7. Veeramadhavan

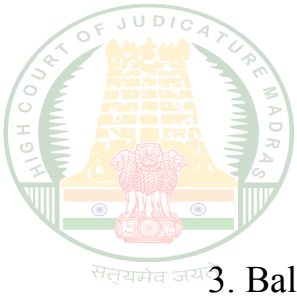
(Appellants 2 to 7 are brought on record as LR's of the deceased
Sole Appellant vide Court order dated 06.11.2024 made
in C.M.P.(MD)Nos.10591 and 10592 of 2023 in S.A.No.409 of 2002)

...Defendant/Appellant/Appellant

Vs

1. Sivashunmugam(Died)

2. M.Periyasamy



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3. Balakrishnan

(Name of the respondent No.3 is amended vide Court order dated 24.08.2023 made in CMP(MD)No.10765 of 2023 in S.A.No.409 of 2002)

4. Saravanan

(Respondents 3 & 4 are brought on record as LR's of the deceased R1 vide order of Court dated 06.09.2008 made in MP(MD)No.1108 in SA.No.409 of 2002)

5. S.Pushbasundari

6. M.Rathina

(Respondents 5 and 6 are brought on record as LR's of the deceased 1st respondent vide court order dated 24.08.2023 made in CMP(MD)No.10766 of 2023 in S.A.No.409 of 2002)

7. Somasundari

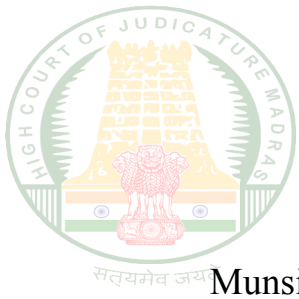
8. Rathina Maheswari

9. Meenakshi

(Respondents 7 to 9 are brought on record as LR's of the deceased second respondent vide court order dated 24.08.2023 made in CMP(MD)Nos.10767, 10769 and 10770 of 2023 in S.A.No.409 of 2002.)

... Plaintiffs/Respondents/Respondents

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, to set aside the judgment and decree dated 29.06.2001 of the learned Second Additional Subordinate Judge, Madurai, in A.S.No.182 of 1999 affirming the judgment and decree of the learned District



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Munsif, Madurai Taluk, dated 10.09.1999 made in O.S.No.166 of 1998
and to dismiss the said suit.

For Appellant : Mr.G.Sridharan
For M/S.T.M.Hariharan

For R-3, 5 & 6 : Mr.K.Pandiarajan

For R-4 : Mr.R.Naramdan

For R-7 to R-9 : Mr.C.Sankar Prakash

JUDGMENT

The present second appeal has been filed by the defendants in O.S.No.166 of 1998, challenging the concurrent findings rendered by the Trial Court as well as the Appellate Court, wherein a direction has been issued for framing a scheme with regard to a private Trust.

2. Pending second appeal, the matter was referred to the Mediation Centre attached to the High Court. The parties have entered into a joint compromise, wherein the clauses of the said joint compromise memo are as follows:



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JOINT COMPROMISE MEMO

“We, undersigned, all the parties in Second appeal, submit this memorandum of compromise with following terms which are acceptable to all of us and signed this memorandum whole heartedly, with free will and without anybody's influence.

- 1. We are the legal heirs of all previous, original three parties to Second appeal namely, M. Sivaraman, M.Siva Shanmugam and M.Periyasamy.*
- 2. Originally, the scheme original suit was initiated for the proper management of subject Samadi Private Trust, created though a registered settlement deed of the year 1926 by Samayan Servai, Settlor, to his son Veerapathiran Servai, the settlee, for the purpose of Gurapuja for the ancestor Periyasamy Servai at his Samadi and drinking water Serving to Public in summer and for the maintenance of family Vinayagar Temple.*
- 3. As per the terms of the said settlement deed of 1926 legal heirs of the previous generation trustees are entitle to trusteeship and manage the properties of the trust on yearly rotation basis. In due course due to the increase in the number of legal heirs in each lineage, it become impractical to manage the trust property by all legal heirs in yearly rotation basis.*



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4. *The Practice of serving drinking water to the Public in summer become extinguished which was a practice once when human movement was by bullock cart or by walk. Yearly Gurupuja at Samadi and maintenance of Vinayagar Temple are the remaining duties to be complied by the trust.*

5. *Regarding trust properties, except the cultivable land properties, all other properties are without income, need expenses to protect and maintain it. The income from cultivable lands is also become uncertain due to scarcity in supply of water in most of the years.*

6. *All the legal heirs of the said three lineage M.Sivaraman, M. Sivashunmugam, M. Periyasamy are all now not living in Trust Village due to their various avocations.*

7. *On considering the above said realities about the Trust, it become necessary to create a corpus fund for the Trust and Properties except the Samadi and Vinayagar Koil will be divided in to three equal parts and make it a Separate properties of the said three lineage (M.Sivaraman, M. Sivashunmugam, M. Periyasamy) members.*

8. *The suit Schedule Properties Nos.2 and 4 in the Original Suit No:166/98, Samadi and Vinayagar Koil will remain the Trust Properties.*



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9. *The suit Schedule Properties Nos.1,3,5 in the Original Suit No.166/1998 are released from the Trust and will become the Separate Private Properties of the three lineage members and respective equal share and portions will be as per the agreement already reached to avoid further litigations. After the Compliance of settlement terms the members in each lineage will Partition among themselves their respective shares within Six months duration*

10. *The said corpus fund will be created from the contribution of the three lineage members and Mr.S.Saravanan of the Sivashanmugam lineage is exempted from contributions. The corpus fund will be a bank deposit and interest out of this deposit will be utilized for Trust purpose.*

11. *Trust Corpus fund will be handled and the Trust purpose will be the conducted by three persons nominated from the said three lineage member trustees.*

12. *So hereinafter only three Trustees will manage the trust from the said three lineages and if any one of the member Trustees willing to quit the trust must relinquish his/her Trusteeship in favour of other Trustees Only.*

13. *The undersigned S. Vijayalakshmi, S. Rajeswari, S.Maheswari from S.Sivaraman lineage and S.Rathina*



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from M. Sivashanmugam lineage are hereby relinquish their right over the trust.

14. Taking in to account of this long vision compromise and Smooth functioning of the Trust with new terms in future and relationship of the parties and Mr.Sivaraman's no objection for Mr.Shivashanmugam's enjoyment of portion of Trust Property and payment of money to Mr.Periyasamy for his share in agriculture income by Sivaraman, it is not necessary for the appellants to render account of the Trust as per the decree of the lower courts.

15. The Trustees shall maintain regular accounts and manage corpus fund as a Prudent Man would do the same and according to the law of the land and majority Opinion of Trustees will always prevail.

16. The Trustees shall have all the powers that are available under law to upkeep and management of the remaining Trust Properties, the Samadi and family Vinayagar Temple, to the best advantage of the trust.

17. Since the appellants 2 to 6 are not in station as such unable to appear in person they have duly authorized the 7th appellant namely S. Veeramadhavan to enter into compromise and as such the 7th appellant is duly signing the compromise memo.

18. Likewise the respondents 3 and 4 are unable to appear in person, they have duly authorized the 6th



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respondent namely and the Saravanan 8th respondent is duly authorizing the 7th respondent namely Soma Sundari to enter into compromise as such the 6th respondent and the 7th respondent are duly signing the compromise memo.

19. That in supersession of the judgment and decree dated 29.06.2001 made in [A.S.No. 182 of 1999](#) on the file of the Additional Sub Court, Madurai confirming the judgment and decree dated 10.09.1999 made in [O.S.No. 166 of 1998](#) on the file of the District Munsif Court, Madurai, the final decree may be passed in terms of the above compromise memo.

20. That the terms of the compromise memo may be treated as part and parcel of the final decree passed in the above second appeal.”

3. Considering the fact that the parties have settled the matter before the mediation, the second appeal is disposed of in terms of the Joint Compromise Memo. The Registry is directed to draft a final decree in terms of the Joint Compromise Memo. No costs.

Index : Yes / No
NCC : Yes / No
jbr

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



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R.VIJAYAKUMAR ,J.

jbr

Judgment made in
S.A.No.409 of 2002

Dated:
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