



WEB COPY

SA No. 736 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-02-2026

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

**SA No. 736 of 2025
and
CRP No. 5618 of 2025**

SA No. 736 of 2025

- 1.Thiruvengadam
- 2.Pappathiyammal
- 3.Venkatesan
- 4.Radhika

..Appellant(s)

Vs

- 1.Ravi
- 2.Durga
- 3.Lalitha
- 4.Sub Registrar,
Pammal
- 5.Kokila
- 6.Nagarajan
- 7.Kalavathy
- 8.Babu
- 9.Bhavani
- 10.Datchayani
- 11.Pushpalatha

..Respondent(s)



CRP No. 5618 of 2025

- 1.Thiruvengadam
- 2.Pappathiyammal
- 3.Venkatesan
- 4.Radhika

..Petitioner(s)

Vs

- 1.Ravi
- 2.Durga
- 3.Laitha
- 4.Sub Registrar
Pammal
- 5.Kokila
- 6.Nagarajan
- 7.Kalavathy
- 8.Babu
- 9.Bhavani
- 10.Datchayani
- 11.Pushpalatha

..Respondent(s)

SA No. 736 of 2025

To set aside the Judgment and Decree dated 05.02.2025 made in AS.NO.4/2022 on the file of Hon'ble Additional Subordinate Judge, Kancheepuram by Confirming the Judgment and Decree dated 23.12.2021 made in OS.NO. 393/2008 on the file of the Hon'ble District Munsif Court, Sriperumbudur.

**CRP No. 5618 of 2025**

To set aside the Order and Decretal Order dated 05.02.2025 in IA.No.1/2024 in AS.No.4/2022 on the file of Additional Sub-Court, Kancheepuram.

For Appellant(s): MR.T.Karunakaran

For Respondent(s): Mr.N.Muthukrishnan

For Mrs.K.Thamizharasi For R1 and R5 To R11

Mr.V.Seshachari For R2 and R3

Mr.C.Sathish Govt.Advocate For R4

Judgment

Heard the learned counsel for both sides.

2. The appellants/plaintiffs filed a suit in OS.No.393 of 2008 for declaration and other consequential reliefs against the respondents/defendants. The suit was contested by the defendants. Upon service of notice, the defendants entered appearance and filed their written statements and raised objections disputing the Will dated 13.06.1975 on the ground that it was neither valid nor genuine. They also raised objection regarding the shares claimed by the plaintiffs. On hearing both sides, the suit was dismissed by the Trial Court holding that the plaintiffs failed to prove their claim.



3. Challenging the judgment and decree passed by the Trial Court, the plaintiffs preferred an appeal in AS.No.4 of 2022 before the Additional Sub Court, Kancheepuram, and the defendants contested the appeal as respondents.

4. Pending first appeal, the plaintiffs filed I.A.No.1 of 2024 in AS.No.4 of 2022 seeking to compromise the appeal in terms of a joint memo of compromise filed along with the application. In the compromise memo, it was stated that the plaintiffs entered into a compromise with the third defendant. The third defendant also gave no objection. However, the First Appellate Court held that since the Trial Judge already recorded a finding that the respondents 1 and 5 to 9 were co-shares of the property, a compromise without their consent was impermissible. In such circumstances, the compromise between the appellant and the third respondent is not acceptable one. Accordingly, it was dismissed.

5. Thereafter, in the first appeal in AS.No.4 of 2022, the appellants/plaintiffs filed a memo stating that they were not willing to continue the first appeal against respondents 1, 2, 4 to 11 and sought to dismiss the appeal against them. The same was taken on file and the learned counsel for the third respondent had endorsed no objection. Recording the above, the first appeal was dismissed as not pressed.



6. Challenging the judgment and decree dated 05.02.2025, the appellants have filed this second appeal, wherein the respondents were served and they also appeared.

7. Challenging the order passed in IA.No.1 of 2024, the appellants have also preferred the Civil Revision Petition.

8. Both the Civil Revision Petition and the Second Appeal were tagged together and heard jointly.

9. The learned counsel for the respondents 1 and 5 to 11 raised a preliminary objection, contending that since the first appeal itself was dismissed as not pressed, the Civil Revision Petition is not maintainable.

10. With regard to SA.No.736 of 2025, further the learned counsel for the respondents 1 and 5 to 11 submitted that as the appellants had already given them up before the First Appellate Court, they are not entitled to proceed against them in the second appeal.

11. The learned counsel for the respondents 2 and 3 submitted that the alleged compromise was brought about on the basis of false promises and that



the third defendant was compelled to sign the compromise memo.

Subsequently, the third respondent has also not accepted the compromise.

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12. Admittedly, the alleged compromise memo was entered into only between the plaintiffs and the third defendant and not with other defendants. Therefore, the said compromise memo is not binding on the other defendants. This was rightly concluded by the First Appellate Court. Since the compromise was not accepted by all the defendants, the application in IA.No.1 of 2024 was rightly dismissed. Consequently, the first appeal came to be dismissed on the basis of the withdrawal memo and not on merits.

13. It is now stated that even the third respondent is not inclined to act upon the compromise and seeks to contest the appeal on merits. In such circumstances, the findings of the Trial Court have neither been set aside nor confirmed on merits. Due to the alleged compromise, the appellants had given up the respondents 1, and 5 to 11 and as the compromise memo now goes off, the said given up made by the appellants also not sustainable.

14. Therefore, this Court is inclined to grant liberty to the appellants to approach the First Appellate Court and prosecute the appeal on merits, in the manner known to law. Accordingly, the Second Appeal is disposed of.



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15. In view of the orders passed in the second appeal, the Civil Revision Petition is dismissed. The respondents/defendants are granted liberty to raise all their defence before the First Appellate Court. The First Appellate Court is directed to dispose of the case within a period of four months from the date of receipt of a copy of this order. No costs.

06-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

PVS

To

1. The Additional Subordinate Judge, Kancheepuram
2. The District Munsif Court, Sriperumbudur.
3. The Sub Registrar, Pammal



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T.V.THAMILSELVI J.

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