



S.A.(MD)No.403 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2026

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

S.A.(MD)No.403 of 2015
and M.P.(MD)No.1 of 2015

M.Mohamed Fakir Mannar Mohamed

... Appellant/
Appellant/
Plaintiff

Vs.

1.M.S.Nabias

2.M.S.Aisa Beevi

3.Jainaba

*(R3 is recorded as devolution of interest holder
of R4 as per the order of this Court passed in
CMP(MD)No.16704 of 2025 in SA(MD)No.403
of 2015 dated 23.01.2026)*

4.Maideen Bisalleh

5.Mohamed Ali Bisalleh (Died)
represented by power holder
M.A.Mohamed Appa

6.Saidinar Omer Bin Mohamed Salleh

7.Mohamed Hussain
through his power holder
A.R.Mohamed Ali Jinnah

8.S.Fathima Haseem

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9.S.Fathima Naseem

10.Fathima Jaseem

through his power holder
A.R.Mohamed Ali Jinnah

11.Noorjahan Ahamed Ali

12.M.A.Maryam Beevi

13.Abdul Ali Bin Mohamed Ali

*(Respondents 11 to 13 are brought on record as
LRs of the deceased 5th respondent vide Court
order dated 10.08.2023 made in CMP(MD)No.
10395 of 2019 in SA(MD)No.403 of 2015)*

.... Respondents

PRAYER : Second Appeal filed under Section 100 of Civil Procedure Code, against the judgment and decree passed in A.S.No.5 of 2010 on the file of the District Court, Kanyakumari at Nagercoil, dated 24.03.2015 confirming the judgment and decree passed in O.S.No.86 of 2006 on the file of the Additional Sub Court, Nagercoil dated 09.12.2009.

For Appellant : Mr.S.Meenakshi Sundaram, Senior Counsel
for Mr.N.GA.Natraj

For Respondents : Mr.C.Godwin
for R3, R7 and R8 to R10

Mr.T.Selvan for R6

No appearance for R2

R1 and R11 to R13 dispensed with

R4 - Died



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JUDGMENT

The Second Appeal is directed against the judgment and decree passed in A.S.No.5 of 2010 dated 24.03.2015 on the file of the District Court, Kanniyakumari at Nagercoil, confirming the judgment and decree passed in O.S.No.86 of 2006 dated 09.12.2009 on the file of the I Additional Subordinate Court, Nagercoil.

2. When the matter is taken up today, the learned Senior Counsel appearing for the appellant filed a memo dated 05.01.2026 stating that the first respondent M.S.Nabias, wrongly recorded in the Court records, as if, she is dead but she is still alive and the first respondent has no surviving interest in the second appeal and hence, notice to the first respondent may be dispensed with and that the respondents 11 to 13, who were sought to be impleaded as the legal heirs of the fifth respondent, may also be dispensed with. The said memo is recorded and hence, the earlier order recording the death of the first respondent is hereby recalled.



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3. The third respondent filed a petition in C.M.P.(MD)No.16704 of 2025 to record the third respondent as devolution of interest holder of fourth respondent on the basis of the settlement deed dated 28.07.2010 executed by the fourth respondent in favour of the third respondent and the same is allowed today.

4. The respondents 3 and 7 to 10 filed a memo stating that the respondents 7 and 10 gave power of attorney to A.R.Mohamed Ali Jinnah and such power is still in force, that the learned counsel for the respondents 3 and 8 to 10 has filed vakalat for the seventh respondent through power agent A.R.Mohamed Ali Jinnah, that the seventh respondent has no objection in allowing the second appeal and decreeing the suit as prayed for and that the respondents 3 and 8 to 10 are giving up their rights obtained under Ex.A.6 to Ex.A.9 settlement deeds from late Mariyam Beevi and in view of the above, the second appeal may be allowed and the suit in O.S.No.86 of 2006 may be decreed as prayed for.

5. The learned counsel appearing for the sixth respondent filed a memo dated 21.01.2026 stating that the trial Court as well as the first



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appellate Court granted decree for partition only in respect of the properties not covered under the settlement deeds and decree was passed for 2/13 shares in Item Nos.1 to 4, that the appellant / plaintiff had been granted 2/13 shares in Item No.5 of the property in the first appeal and after filing of the second appeal to avoid enlargement of disputes in between the family members and to have a peaceful and final settlement, all the members agreed for allowing the second appeal and the suit may be decreed as prayed for by the appellant / plaintiff.

6. The above said Memos filed by the respondents 3 and 7 to 10 and the sixth respondent are recorded.

7. Heard the learned Senior Counsel appearing for the appellant, the learned counsel appearing for the respondents 3 and 7 to 10 and the learned counsel appearing for the sixth respondent.

8. The learned counsel appearing for the contesting respondents would submit that the respondents are not having any objections to allow the second appeal and thereby decreeing the suit in O.S.No.86 of 2006 as prayed for.



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9. In the view of the above, the Second Appeal is allowed and the judgments and decrees passed by the Courts below are set aside. The suit in O.S.No.86 of 2006 on the file of the I Additional Subordinate Court, Nagercoil, is decreed as prayed for. Parties are directed to bear their own costs. Consequently connected Miscellaneous Petition is closed.

23.01.2026

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

To

1. The I Additional Subordinate Judge,
Nagercoil.
2. The District Judge,
Kanniyakumari at Nagercoil.
3. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J

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Judgment made in
S.A.(MD)No.403 of 2015
and M.P.(MD)No.1 of 2015

Dated : 23.01.2026