

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1324/2010

M. BALASUBRAMANIAN AND ORS

Appellant(s)

VERSUS

THIRUGNANASAMBANDAM (DEAD) AND ORS

Respondent(s)

O R D E R

There is always hope! Shri Sriram Panchu, the learned Mediator has proved it right. This has happened with the facilitative attitude of the learned counsels and the constructive approach adopted by the parties rather than being at *lis*.

The matter pertains to the land rights. The appellants claim rights in land while the respondents Society was of the view that the land has been given for religious common purposes of the community by the ancestors of the appellants. The mediation settlement arrived at is dated 26.09.2022 duly signed by the parties.

The mediation settlement sets out that the concerned property is situated in Tiruvannamalai, Tamil Nadu measuring 172 cents and would be divided between the members of the appellant family and Thodaimandala Kodaikatti Vellalar community represented by the

respondent Society with 30 cents going to the appellants and remainder 142 cents vesting with the society. A material part of the settlement is that the appellant family would use the portion allotted to them for residential community purposes and would under no circumstances commercially exploit the allotted property by putting up shops etc. The appellant family can, however, run a choultry for the benefit of the pilgrims from the said community and the appellants are further free to alienate any portion of land allotted to them with the condition as to the non-commercial utilization of the land in question. The effect of this is that it is an absolute title to the appellant except as qualified only to the extent of the user being non-commercial.

Insofar as the respondent Society is concerned, the land is to be utilized for the community purposes and will not be alienated at any point of time. The Society will initially built a temple and install an idol and Navagrahas. There would be restoration of the garden and pond to offer flowers to the idol. They would also put up rooms for lodging of the pilgrims at reasonable or nill rates. The other measures to develop the property for the common benefit of the community and the worshipers of any community would be taken depending on the contribution from the community members and others.

There is an issue of access to the respective lands and thus, the land required for common pathway to have access to the respective properties of the two parties would be taken from the share of the respondent Society with a perpetual unrestricted use of pathways by both sets of the parties.

In order for the aforesaid to be carved out, it has been agreed that the parties along with the Oversight Officer would determine the dimensions and physical division of the suit property between the appellants and the respondents as also of the location of the pathway. In case of any difference, the decision of the Oversight Officer would be final and conclusive. A prayer is made to this Court to appoint an Oversight Officer for a period of three years to ensure that this arrangement goes through smoothly. In case of any difference between the parties they would approach the Oversight Officer and would ordinarily abide by the decision. It is also stated that the Oversight Officer would have the right to seek appropriate directions from the District Court under the provisions of Charitable and Religious Endowments Act, 1920.

On the Court query, as to who would be the Oversight Officer, it is agreed that Shri Sriram Panchu, the learned Mediator would facilitate the task to be the Oversight Officer and that his decision should be final

and binding on both the parties without any further recourse to approaching any judicial forum whether in the District Court or High Court. We accord our approval to it.

In order to do some ground work, it is open to Shri Sriram Panchu to appoint a nominee for site work and whatever exercise is carried out, in case of any difference of perception, it would be Shri Sriram Panchu who would take a call as the Oversight Officer.

We thus, take the settlement on record with the aforesaid agreed modifications and pass a decree in terms of the order penned down today. The decree sheet will be drawn up accordingly.

Shri Sriram Panchu, learned Mediator would fix his own remuneration insofar as his role of Overseeing Officer is concerned or for his nominee to carry out the exercise at the site.

The costs would be borne by the two parties in the share of their proportionate rights in the properties i.e. in 1:5 ratio.

We once again greatly appreciate the efforts made by Shri Sriram Panchu, learned Mediator and the sane advice which must have been given by counsels before us.

The appeal stands disposed of in the aforesaid terms.
Parties to bear their own costs.

..... J.

[SANJAY KISHAN KAUL]

..... J.

[M.M. SUNDRESH]

NEW DELHI;

SEPTEMBER 27, 2022.

ITEM NO.301

COURT NO.3

SECTION XII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 1324/2010

M.BALASUBRAMANIAN AND ORS.

Appellant(s)

VERSUS

THIRUGNANASAMBANDAM (DEAD) AND ORS.

Respondent(s)

([FOR DIRECTIONS] [PART-HEARD BY HON'BLE SANJAY KISHAN KAUL AND
HON'BLE M.M. SUNDRESH, JJ.])

Date : 27-09-2022 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Appellant(s) Mr. V. Krishnamurthy, Sr. Adv.
Mr. V. Balachandran, AOR
Mr. Siddharth Naidu, Adv.

For Respondent(s) Mr. C. Aryama Sundaram, Sr. Adv.
Mr. K. K. Mani, AOR
Mr. Rajarajan, Adv.
Mr. S. Langesan, Adv.
Mrs. T. Archana, Adv.
Mr. Vinay Rajput, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal stands disposed of in terms of the signed order.

Pending application, if any, stands disposed of.

(ASHA SUNDRIYAL)
ASTT. REGISTRAR CUM PS

(POONAM VAID)
COURT MASTER (NSH)

* Original Settlement Agreement is enclosed herewith