

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2015

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

S.A.No.1636 of 1999

K.S.Marimuthu

... Appellant/Plaintiff

-Vs-

K.S.Krishnan

... Respondent/Defendant

Second Appeal filed under section 100 of C.P.C against the judgment and decree dated 21.06.1999 made in A.S.No.123 of 1998 passed by the Subordinate Judge, Bhavani confirming the judgment and decree dated 05.10.1998 made in O.S.No.971 of 1994 passed by the Addl.District Munsif, Bhavani.

For appellant : No appearance

For Respondent : Mr.T.P.Manoharan

JUDGMENT

The learned counsel for the appellant submits that the sole appellant K.S.Marimuthu died in the year 2002 itself. However, the learned counsel appearing for the appellant pleads inability in getting the Death Certificate to be produced before this Court. When the counsel for the appellant is not in a position to proceed with the case on the premise that the sole appellant is not alive coupled with the fact that the Death Certificate of the appellant has not been produced, this Court is of the view that disposal of the case recording the death of the sole appellant and the consequent abatement may not be feasible. On the other hand, the second appeal has got to be dismissed for non-prosecution with a clarification that if at all the second appeal had already abated, the order/judgment of dismissal for non-prosecution will be superfluous as the same is pronounced in a lis, which is not pending.

2. In the result, the second appeal is dismissed for non-prosecution with the above said clarification. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gpa

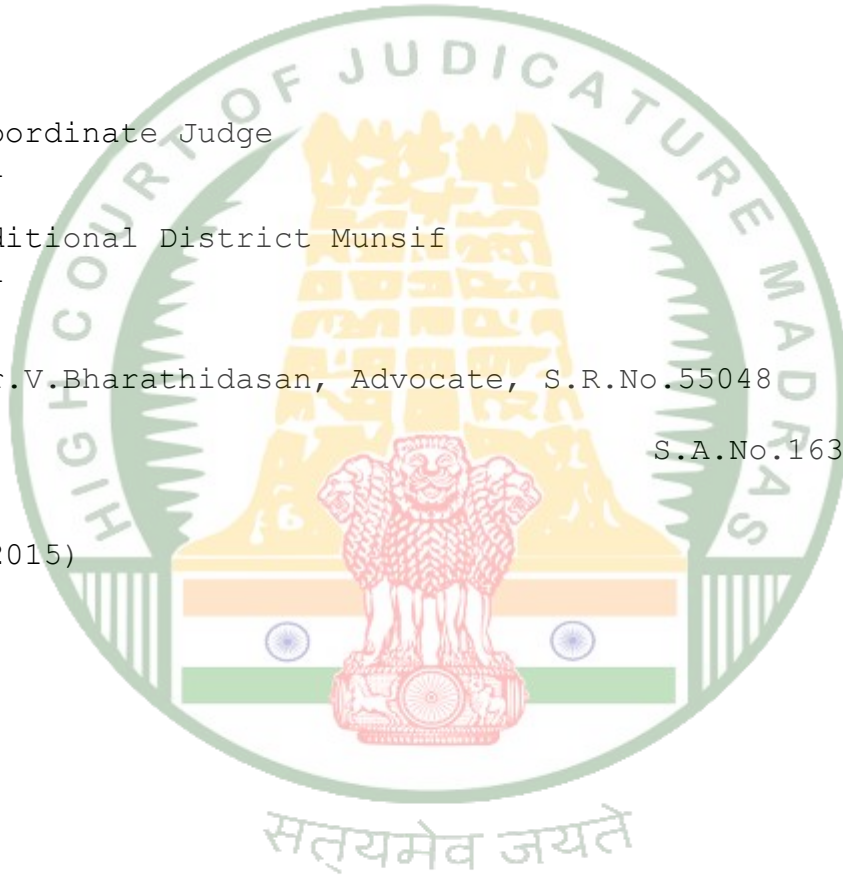
To

1. The Subordinate Judge
Bhavani
2. The Additional District Munsif
Bhavani

+1cc to Mr.V.Bharathidasan, Advocate, S.R.No.55048

S.A.No.1636 of 1999

SR(CO)
CA(27/10/2015)



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