

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2015

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

S.A.No.735 of 1999

Govindaswamy Naicker

.. Appellant/Plaintiff

-Vs-

Gopal Naicker

.. Respondent/5th Defendant

Second Appeal filed under section 100 of C.P.C against the decree and judgment of the Court of the Civil Judge (Senior Division), Kallakurichi made in A.S.No.125 of 1996 dated 20.03.1997 reversing the judgment and decree of the Additional District Munsif, Kallakurichi made in O.S.No.112 of 1987 dated 23.04.1993.

For Appellant : No appearance

For Respondent : M/s.Sarvabhauman Associates
Sole respondent

JUDGMENT

On 24.07.2015 itself, it was represented on behalf of the counsel for the respondent that the junior counsel attached to the office of the counsel on record for the appellant informed him that the sole appellant had died. But the counsel for the appellant remained absent even on that day. Subsequently also, when the matter stood listed for taking steps if the representation happened to be correct, the counsel for the appellant was absent and there was no representation for several hearings. At last, when matter stood listed on 21.09.2015, since as usual there was no representation for the appellant, this Court directed the Registry to list the matter under the caption "For Dismissal" today. Thus, the matter stands listed today "For Dismissal".

2. As there is no representation for the appellant today also, this Court deems it appropriate to dismiss the second appeal for non-prosecution with costs. Accordingly, the second appeal is dismissed for non-prosecution with costs. However, it is clarified that this

order of dismissal for non-prosecution will be superfluous in case the sole appellant had died and the time for taking steps had elapsed resulting in abatement of the second appeal by operation of law, prior to this order of dismissal for non-prosecution.

Gpa

Sd/-
Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

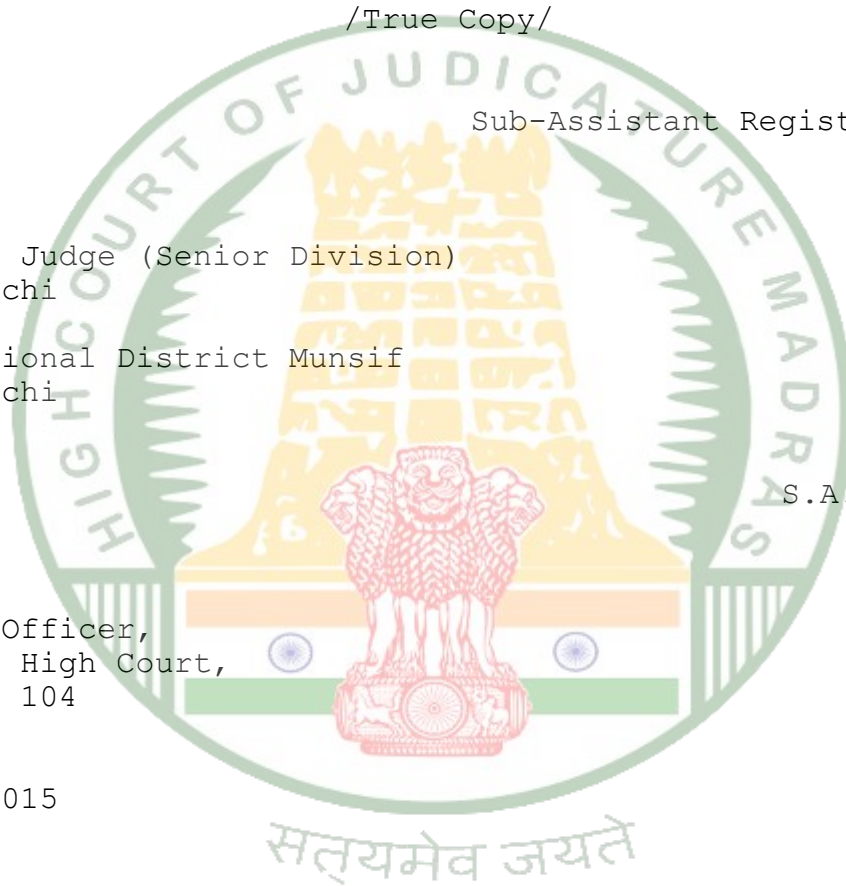
1. The Civil Judge (Senior Division)
Kallakurichi
2. The Additional District Munsif
Kallakurichi

S.A.No.735 of 1999

Copy to :

The Section Officer,
V.R.Section, High Court,
Madras - 600 104

SV(CO)
sd : 05/11/2015



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