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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2015

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND

The Hon'ble MRS.JUSTICE PUSHPA SATHYANARAYANA
L.P.A. No.31 of 2003

Sri Meenakshisundareswarar Etc.,
Devasthanam through its Executive
Officer, Madurai. .. Appellant/Petitioner/Plaintiff

-vs-

1.Sultan Rowthar
2.K.S.Subramanian
3.Balammal
4.S.Somasundara Bhattar
5.K.M.S.Pathuma Beevi
6.Sheik Mansoor
7.Raja Mohammed
8.Pathamuthu
9.Jamal Mohammed .. Respondents/ Respondents/Defendants

Appeal filed under Clause 15 of the Letters Patent against the order dated 13.06.2002 passed in C.M.A.No.878 of 1989 on the file of this Court modifying the order dated 17.03.1987 passed in I.A.No.586 of 1986 in O.S.No.84 of 1984 on the file of Principal Sub Judge, Madurai.

Prayer in CMA 878/1989:- Civil Miscellaneous Appeal is filed against the order passed in Ia.586/1986 in OS.84/84 dated 17.03.1987 on the file of Principal Subordinate Judge, Madurai.

For Appellant : Mr.B.Sivakumar
For Respondents : No appearance for RR 2 to 9
: Not ready in notice reg. R-1



J U D G M E N T

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

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The suit instituted for recovery of possession before the trial Court is of vintage 1984. The appellant / original plaintiff did not take steps to implead the legal heirs of deceased 2nd and 3rd defendants and in view thereof, the trial Court dismissed the suit in toto, which order was assailed before the learned Single Judge. The learned Single Judge, in terms of the impugned order dated 13.06.2002, restored the suit qua the defendants who had been served and were appearing. The appellant now files the appeal on account of non-restoration of suit against the defendants whose legal heirs have not been brought on record.

2.We can hardly fault the order of the learned Single Judge in the aforesaid context, as the suit cannot be restored against the deceased persons and would actually abate against the said parties.

3.The appeal is dismissed with the aforesaid observation. No costs.

Sd/
ASSISTANT REGISTRAR (CS-II)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

sra

To

The Principal Subordinate Judge,
Madurai.

L.P.A.No.31 of 2003

CO-AK
JD 04/01/2016