



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE P.R.SHIVAKUMAR

S.A.(MD).No.220 of 2015
and
M.P.(MD).No.1 of 2015

1. Marry
2. Sakunthala
3. Mariarose
4. Lilly Puspham

... Appellants

Vs.

1. D.Mariya Arullammal
2. D.John
3. D.Marlin
4. D.Antony Xaviour
5. D.Christoper
6. D.Rajeshwari
7. D.Rezhithal
8. Rajappan
9. Prabhu
10. Sharmila
11. Pradeesh (Minor _ Rep by R8)
12. Hepsi
13. Jinu (Minor - Rep by Court Guardian)
14. Stella
15. Shalin (Minor - Rep by Court Guardian)
16. Shanthini (Minor - Rep by Court Guardian)

... Respondents

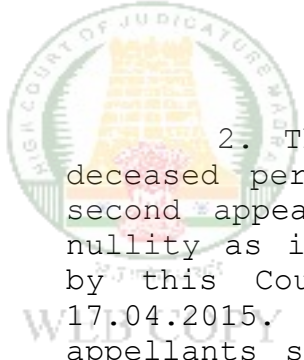
Prayer: Second Appeal filed under Section 100 of the Code of Civil Procedure against the judgment and decree passed by the learned Subordinate Judge, Kuzhithurai dated 20.11.2009 in A.S.No.56 of 2003 by confirming the judgment and decree passed by the learned II Additional District Munsif Court, Kuzhithurai dated 28.02.2003 in O.S.No.221 of 1979.

For Appellants : No appearance

For Respondents : Mr.G.Ramanathan

J U D G M E N T

The Second Appeal stood listed for admission on 15.04.2015. On the said date, the learned counsel for the appellants submitted that the 8th respondent (Rajappan) died in the year 2005 itself viz., during the pendency of the appeal before the lower appellate Court. The judgment of the lower appellate Court came to be pronounced on 20.11.2009. As such, in the absence of any of the legal representatives of the said person already being a party in any other capacity in the appeal, the appeal as against him would have abated.



2. The present second appeal came to be filed showing the said deceased person Rajappan also arraying him as a party respondent. The second appeal, so far as the said Rajappan is concerned, shall be a nullity as it is preferred against a dead person. The same was appraised by this Court and the case came to be adjourned for admission to 17.04.2015. It was also observed in the order dated 15.04.2015 that the appellants shall also appraise the Court regarding the effect of second appeal being a nullity as against the 8th respondent, on the appeal as against the other respondents. The counsel for the appellants, who thus got the case adjourned to 17.04.2015, did not turn up, when the matter appeared in the list on 17.04.2015. However, in order to give one more chance to the appellants, by order of this Court, this matter stands listed today under the caption "for dismissal". Today also there is no representation for the appellants. Hence, the Second Appeal is dismissed for non-prosecution. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1. The Subordinate Judge,
Kuzhithurai, Kanyakumari District
2. The II Additional District Munsif Court,
Kuzhithurai, Kanyakumari District.

+lcc to Mr.K.Sreekumaran Nair, Advocate, in SR. No. 20889

TS/11.05.2015/2P-4C

S.A. (MD) .No.220 of 2015

21.04.2015