

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2016

C O R A M

THE HON'BLE Dr.JUSTICE G.JAYACHANDRAN

S.A.No.1034 of 1992

Family Manager,
Muthusami Gounder,

.. Petitioner

Versus

1. Chennimalai Gounder (deceased)
2. Ramasami
3. Karuppusami
4. Manikkam
5. Pappammal
6. Swaminathan
7. Kannammal
8. Sivakami
9. Balamani

... Respondents

R5 to 9 are brought on record as legal heirs of the deceased first respondent vide order of Court dated 28.11.2005 proceedings in CMP.No.13691 to 13693 of 2002.

Appeal filed under Section 100 of the Civil Procedure Code to set aside the judgment and decree as made in A.S.No.61 of 1990 dated 19.11.1991 on the file of the Subordinate Judge, Dharapuram reversing the judgment and decree made in O.S.No.36 of 1990 dated 12.09.1990 on the file of the District Munsif, Kangayam.

For Appellant

सत्यमेव जयते

Mr.K.Kuppusamy &
Mr.V.K.Nachimuthu

For Respondents

... Mrs.V.Ambika for R6
R2 to 5 & R9 -NA

JUDGMENT

The appellant is not ready to contest the appeal. Perusal of the record, this Court finds that, on 18.03.2013 this Court has granted time to take steps and file batta on or before 28.03.2013 or otherwise the second appeal would stand automatically dismissed.

2. Today the learned counsel appearing for the appellant is not able to assist the Court and tell whether steps was taken, in fact when the matter was posted on 24.10.2016, the appellant was represented by some other counsel and time was sought, which was adjourned to 02.11.2016. In spite of granting time, the learned counsel for the appellant was not able to provide any information, whether steps have been taken as per this Court order dated 18.03.2013.

3. Therefore consonance with the order passed by this Court on 18.03.2013 appeal is dismissed.

04.11.2016

"For being spoken to "

This matter having been listed order the caption for being spoken to on 17.11.2016 pursuant to the order of this court dated 4.11.2016 and made herein in the presence of the above said counsels on either side, the court made the following order:-

This Second Appeal is listed today under the caption "for being spoken to", at the instance of the learned counsel for the appellant.

2. When this second appeal taken up for hearing on 04.11.2016, the learned counsel for the appellant was not ready to contest the appeal. Further, perusal of the records revealed that no steps have been taken to serve notice on the newly impleaded respondents. Recording the same, this Court dismissed the above Second Appeal.

3. While drafting the decree, the Registry has found that steps was taken by the appellant to implead the respondents and after service of notice to the respondents, their names were also shown in the cause list. Since, the second part of the judgment dated 04.11.2016 is not in consonance with the facts on record, this Court posted the matter "for being spoken to" and listed the matter on 17.11.2016.

4. On 17.11.2016, the learned counsel for the appellant sought for time to argue the matter. Hence, the matter was directed to be listed on 18.11.2016. Unfortunately, even today (18.11.2016), the learned counsel who represents the appellant is not ready to argue the matter, but also seeks further time.

5. Since, the matter is of the year 1992 and records reveals that enough indulgence has been shown to the appellant on

various occasions and even after dismissing the Second Appeal, another chance was given to the learned counsel for the appellant to argue the matter but, the same was turned futile. There seems to be no sign of making submissions on behalf of the appellant. Hence, this Court no other go except to dismiss the second appeal for non prosecution. Accordingly, the Second Appeal is dismissed.

6.Except making the above observation, the judgment dated 04.11.2016 in S.A.No.1034 of 1992 shall stand confirmed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Subordinate Judge,
Dharapuram

2. The District Munsif,
Kangayam.

3. The Section Officer
VR Section,
High Court, Madras

2 ccs to Ms.M. Srividhya, Advocate, Sr. 67024 and 63080

S.A.No.1034 of 1992

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04.11.2016/ 18.11.2016