

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2016

CORAM

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

S.A.No.197 of 2002

1.Subramanian
2.Saraswathi
3.Pakkirisamy
4.Shanmugham
5.Manickannu
6.Dhanalakshmi

... Appellants

Vs.

1.Krishnamurthy
2.Vedavalli
3.Sambandam

... Respondents

Prayer: Appeal filed under Section 100 C.P.C., praying to set aside the Judgment and Decree dated 15.3.2001 passed in A.S.No.64 of 1998 on the file of the learned Additional Subordinate Judge, Cuddalore, confirming the Judgment and Decree dated 22.9.1998 passed in O.S.No.569 of 1996 on the file of the Principal District Munsif, Cuddalore.

For Appellants : Mr.R.Gururaj

For 1st Respondent : Mr.R.Subramanian

For Respondent Nos.2 and 3 : No appearance

JUDGMENT

It is revealed from the records that when the matter came up for hearing on 28.01.2011, a Memo was filed by the learned counsel appearing for the appellants - 1, 4 and 6 stating that the appellants 2, 3, 5 and the 2nd respondent had passed away on different dates. In the said Memo, it is also stated that except the appellants 1 and 6, the other defendants in the suit have not claimed any right over the suit property. The appellants 1 and 6 have claimed title under Exs.B.11 to B.13, which were supported by the other defendants by adopting their written statement. They have not filed any separate written statement nor have deposed. It is also stated in the Memo that for the reasons stated above, there was no need to implead the legal heirs and that the appeal might be proceeded with the parties alive and the appellants 1 and 6 might be recorded as the legal representatives of the deceased appellants 2, 3 5 and

2nd respondent. But, contrary to the memo filed by the appellants 1, 4 and 6, it was represented that 10 days time might be granted to implead the legal representatives of the deceased appellants and the second respondent.

2. Therefore, the matter was ordered to be listed on 8.2.2011. On that day, there was no representation for the appellants. Hence, the matter was ordered to be listed on 10.2.2011. On that day also, there was no representation for the appellants and the matter was ordered to be listed under the caption "for dismissal" on 11.2.2011. When the matter was taken up for hearing on 11.2.2011, it was represented on behalf of the appellants that steps were taken to implead the legal representatives of the appellants 2, 3, 5 and 2nd respondent. Hence, the matter was ordered to be listed on 18.2.2011 under the same caption. After a lapse of four years, this matter was again listed and taken up for hearing on 18.2.2016.

3. On 18.2.2016, it was represented by the learned counsel appearing for the appellants that an application in SR No.11127 of 2011 for impleading the legal representatives of the deceased appellants is pending unnumbered. Therefore, the Registry was directed to verify as to why this petition was not numbered till this date? This matter was ordered to be listed on 23.2.2016. On that day, when the matter was taken up for hearing, it was found that the direction of this Court dated 18.2.2016 was not complied with by the the Registry. Therefore, the Registry was again directed strictly to comply with the direction given by this Court on 18.2.2016.

4. When the Second Appeal was taken up for hearing on 25.2.2016, the matter was ordered to be listed either "for dismissal or for disposal" on 1.3.2016. On 1.3.2016, on the request made by the learned counsel appearing for the appellants, the appeal was ordered to be listed on 7.3.2016 under the same caption. सत्यमेव जयते

5. On 7.3.2016 i.e. today, when the appeal was taken up for hearing, the learned counsel appearing for the appellants has submitted that the Appeal might be dismissed for non-prosecution.

6. In view of the submission made by the learned counsel appearing for the appellants, the present Appeal is dismissed for non-prosecution with the cost of the respondents.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

asvm

To

1. The Additional Subordinate Judge,
Cuddalore
2. The Principal District Munsif,
Cuddalore.

+lcc to Mr.R.Subramanian, Advocate, S.R.No.14578

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LRS (CO)
CA(23/03/2016)



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