

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2017

CORAM

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

S.A.No.118 of 1987

Dhanalakshmi ...Appellant/Plaintiff

Vs.

Kuppan ...Respondent/Defendant

Prayer:- This Second Appeal is filed under Section 100 of Civil Procedure Code against the judgment and decree dated 22.09.1986 made in A.S.No.9 of 1986 on the file of the learned Additional District Judge, North Arcot at Vellore in confirming the judgment and decree dated 27.03.1985 made in O.S.No.517 of 1981 on the file of the learned District Munsif Court of Ranipet.

For Appellant : Mr.P.Subburaj

For Respondent : No appearance

JUDGMENT

This appeal was dismissed on 01.07.1999 for non-prosecution and thereafter, an application to restore the appeal was filed and in that application, notice was ordered to the respondent for restoring the appeal. However, the records reveal that despite private notice served on the respondent on 09.03.2010 there was no representation for the respondent and the miscellaneous petition was allowed. Thereafter, this Court directed the appellant to take fresh notice to the respondent on 08.04.2015 and private notice was also permitted. Till date, the appellant has not complied with the said order of this Court dated 08.04.2015.

2. When the matter was taken up for final hearing on 03.02.2017 there was no representation for the appellant. Hence the Registry was directed to post the matter, today under the caption "for dismissal".

3. Today, the learned counsel for the appellant reported that the sole respondent is represented through his counsel Mr.A.Seshan. But on verification, the said statement found to be incorrect. The said counsel who appeared on behalf of the respondent earlier, however after the dismissal of the appeal has not entered appearance on behalf of the respondent and hence this Court directed the appellant to take fresh notice on 08.04.2015. Though the appellant was also permitted to take private notice, no interest has been shown to comply the order of this Court. Added to that, when the matter was listed for hearing on 03.02.2014, there was no representation.

4. This Court is of the opinion that the appeal is the of 1987 and was dismissed in the year 1999 for non-prosecution and on the insistent of the appellant it was restored again and it cannot be kept pending due to the default of the appellant for not taking steps as directed by this Court on 08.04.2015.

5. This Court is of the opinion that no further indulgence is required in this case and hence the second appeal is dismissed for default. No costs.

-Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

1. The Additional District Judge, North Arcot at Vellore

2. The District Munsif Court of Ranipet

+1 cc to Mr.P.Srinivas, Advocate Sr.No.8436

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