



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Wednesday, the Twenty Ninth day of November Two Thousand and
Seventeen

PRESENT

The Hon`ble Mr.Justice S.BASKARAN

CMP(MD) No.10911 of 2017

IN

SA No.1848 of 2003

TMT.LAKSHIMAYEE AMMAL

... PETITIONER/APPELLANT

Vs

1.THIRU.DURAI PILLAI (DIED)

TMT.KANNAMMAL,

2.TMT.KANNAMMAL,

3.MR.DHANAPAL,

4.MR.KAMARAJ,

5.MR.SHANMUGHAVEL,

6.SMT.NALINI,

... RESPONDENTS/RESPONDENTS

Prayer in CMP(MD) No.10911 of 2017:-

Civil Miscellaneous Petition is filed Under Order 41 Rule 19 of Civil Procedure Code praying this Hon'ble Court to restore the second appeal in SA.No.1848/2003 which was dismissed for default on 25.3.2013.

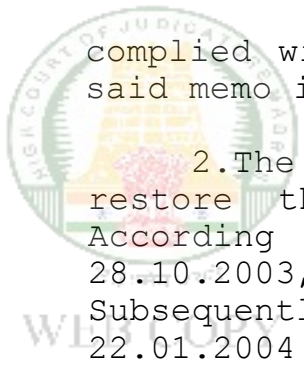
Prayer in SA No.1848 of 2003 :-

Second Appeal filed under section 100 of Civil Procedure Code against the decree and judgment in A.S.No.51/2000 dated 18/03/2003 on the file of Sub Court at Pudukottai at Pudukottai District in setting aside the decree and judgment in O.S.No.691/1995 dated 24/11/1999 on the file of the District Munsif cum Judicial Magistrate Court at Keeranur.

ORDER : This petition coming on for hearing on this day, upon perusing the argument of MR.A.RAJESH KANNA, Advocate for the Petitioner and of MR.K.P.NARAYANAKUMAR, Advocate for the Respondents, this Court made the following order:-

<https://hcservices.ecourts.gov.in/hcservices/>

The conditional order passed by this court on 15.11.2017 is



complied with and a cost memo to that effect is filed today. The said memo is recorded.

2.The petitioner has come forward with this petition seeking to restore the second appeal, which was dismissed for default. According to the petitioner, the second appeal was admitted on 28.10.2003, interim stay was granted in C.M.P.No.16789 of 2003. Subsequently, the said interim stay was made an absolute on 22.01.2004 thereafter due to the bifurcation of Madurai Bench of Madras High Court, the second appeal was transferred to this Court and same is pending before this Court. Subsequently, when the second appeal listed on 23.05.2013, none appeared on that day. Hence, the same was dismissed for default.

3.The learned counsel for the petitioner submitted that after bifurcation of Madras High Court as Madurai Bench, he was not able to appear before the court on the particular date. Subsequently, he received a notice in E.P.No.12 of 2014 from the Learned District Munsif Court, Keeranur. Then only, the petitioner came to know that the second appeal was dismissed on 25.03.2013 for default. Hence, the petitioner prays for restoration of the second appeal for enabling the disposal of the said case on merits.

4.The learned counsel for the respondents is present and contended that E.P.No.12 of 2014 is restored. Thus, he opposes the petition.

5.However, considering the fact that already the delay has been condoned and also considering the reasons stated by the petitioner, this Court is inclined to allow this petition. Accordingly, this petition is allowed. The Registry is directed to restore the second appeal and list the same on 12.12.2017.

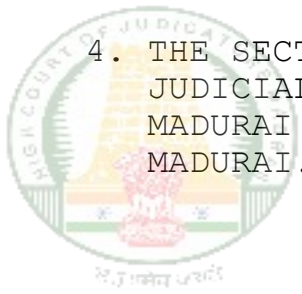
Sd/-
Assistant Registrar(CS-I)

/ TRUE COPY /

Sub-Assistant Registrar

TO

1. THE SUBORDINATE JUDGE,
PUDUKKOTTAI.
2. THE DISTRICT MUNSIF-CUM-JUDICIAL MAGISTRATE,
KEERANUR.
3. THE SECTION OFFICER,
VR SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.



4. THE SECTION OFFICER
JUDICIAL POSTING,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

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ORDER DATED :29/11/2017

ORDER

CMP (MD) No.10911 of 2017
IN

SA No.1848 of 2003

AE/SV MMS/SAR3/11.12.2017/3P/5C