

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Dated: 23.02.2017****CORAM****The HONOURABLE MR.JUSTICE M.DURAI SWAMY****S.A(MD)No.787 of 2011**
and M.P(MD)No.1 of 2011

1.Shanmuga Nadar
2.Ganesan
3.Vasanthi

.. Appellants/Appellants/Defendants

Vs.

Babi

.. Respondent/Respondent/Plaintiff

Prayer:- Second Appeal is filed under Section 100 of the Civil Procedure Code against the Judgment and Decree, dated 08.11.2010 made in A.S.No.41 of 2009 on the file of the Principal District Court, Virudhunagar, confirming the Judgment and Decree, dated 22.06.2009 made in O.S.No.64 of 2007 on the file of the Sub Court, Sivakasi.

For Appellant : No appearance

For Respondent: Mr.G.Gomathi Shankar

JUDGMENT

When the matter was listed for hearing on 14.12.2016, the learned counsel for the appellants reported 'no instructions. In these circumstances, the Registry was directed to send drafted notices to the appellants. Pursuant to the order of this Court, the Registry sent drafted notices to the appellants, which were duly received by the second appellant. Though the name of the second appellant has been printed in the cause-list, none appeared for him. Notice sent to the first appellant was returned with an endorsement that the first appellant had died and the notice sent to the third appellant was returned with an endorsement 'no residence'. Earlier, Mr.G.Gomathi Sankar, learned counsel appearing for the respondent submitted that the parties had settled the matter out of Court.

2.When the matter was listed for hearing on 22.02.2017, though the name of the second appellant has been printed in the cause-list, none appeared for him. In these circumstances, the Registry was directed to list the matter under the caption 'for dismissal' on 23.02.2017. On 23.02.2017, ie., today, though the name of the second appellant has been printed in the cause-list, none appeared for him. Hence, this Court has no other option except to dismiss the appeal for non-prosecution.



3. Accordingly, this Second Appeal is dismissed for non-prosecution. However there shall be no order as to costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(AE)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Principal District Judge,
Virudhungan.

2. The Sub Judge,
Sivakasi.

Copy to

The Section Officer,
V.R Section,
Madurai Bench of Madras High Court,
Madurai.

Ps

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**S.A(MD)No.787 of 2011
and**

**M.P(MD)No.1 of 2011
23.02.2017**