

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.11.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

S.A.No.661 of 2006

Mariappan

... Appellant/Plaintiff

vs

1.Subramanian

2. Sub Registrar,
Udumalpet.

... Respondents /Defendants

Prayer: Second Appeal filed under Section 100 of the Code of Civil Procedure Code, against the judgment and decree passed in A.S.No.29 of 1998 on the file of the Sub-Court, Udumalpet dated 07.04.2005 reversing the judgment and decree passed in O.S.No.561 of 1996 on the file of the District Munsif Court, Udumalpet dated 19.03.1998.

For Appellant :Mr.K.Balaji

For Respondents :Mr.J.Ramakrishnan for R1
Mr.A.Dev Narendran,
Government Advocate for R2

JUDGMENT

When the case was listed on 23.07.2014, this Court passed an order stating that the sole appellant was dead and adjourned the matter for taking steps. Thereafter, the matter was listed on 13.07.2017 and the second appeal was adjourned.

2. The second appeal was listed on 21.07.2017 once again for taking steps to bring legal heirs on record. For that purpose, the case was listed on 10.08.2017. On that day, the learned counsel for the appellant was absent and the matter was listed finally on 29.08.2017.

3. On 29.08.2017, once again there was no representation for the appellant and steps were also not taken. Thus, the Registry was directed to list the matter on 15.09.2017 under the caption "For Dismissal". On 15.09.2017, when the matter was listed for hearing, the learned counsel for the appellant made a submission that the sole appellant died and requested for adjournment. Accordingly, the case was adjourned on 11.10.2017. Once again the matter was listed on 09.11.2018 and one more opportunity was given to the appellant for taking steps. When the matter is posted today on 19.11.2018, the learned counsel for the appellant submitted a letter sent by him to the appellant.

4. The learned counsel for the appellant made a submission that in spite of his sincere efforts, he is unable to secure any instructions for the purpose of taking steps to implead the legal heirs of the sole appellant, who was reportedly died. In view of the fact that the appellant is unable to secure instructions for filing a petition to implead the legal heirs of the appellant, the case was unable to be proceeded with. Under these circumstances, this Court is of an opinion that no purpose would be served in keeping the present second appeal pending for an unspecified period. The learned counsel for the appellant is also unable to proceed with the matter. Thus, this Court has no option but to close the second appeal.

5. Accordingly, the second appeal stands closed. However, liberty is granted to the parties to restore the second appeal, if they have chosen to do so, within a reasonable period of time. There shall be no order as to costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Svn/pns
To

1.Sub Court,
Udumalpet.

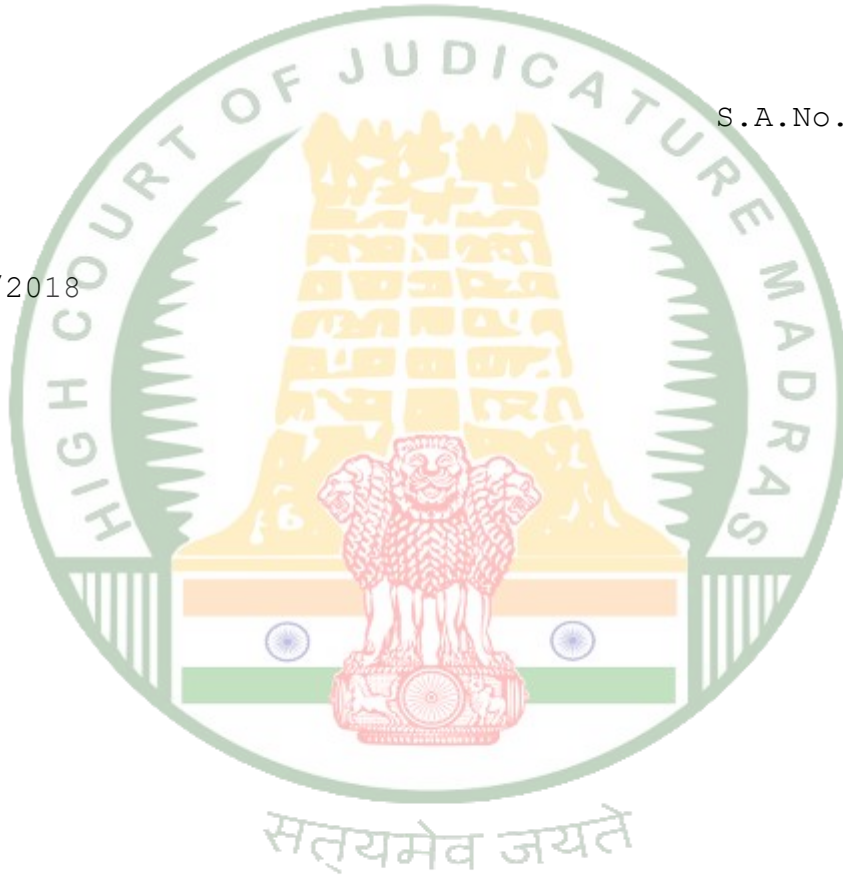
2.District Munsif Court,
Udumalpet.

3.The Sub Registrar,
Udumalpet.

+lcc to the Special Government Pleader sr.78857
+lcc to M/S.K.Balaji, Advocate Sr.78999

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rsi[co]
srg 20/12/2018



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