

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2018

Coram

The Honourable Mr. Justice M.DHANDAPANI

S.A.No.1817 of 1998

Rathina Udaiyar

..Appellant/Plaintiff

vs.

1. Chakkarai Udaiyar
2. Murugesu Udaiyar
3. Aburammal
4. Kanakambal
5. Mayilambal
6. Janaki Ammal

.....Respondents/Defendants 2 to 7

Second Appeal filed under Sec.100 of the Civil Procedure Code against the judgment and decree passed in A.S.No.64/98 on the file of the Additional District Judge, Tiruvannamalai dated 28.7.98 confirming the judgment and decree in O.S.No.941/82 on the file of the Principal District Munsif Court, Tiruvannamalai dated 03.11.1995 dismissing the suit filed by the appellant for declaration of title and permanent injunction.

For Appellant : Mr.S, Vediappan for
Mr.R. Karthikeyan

R.1 : Died
R.2 : Mr.R. Siddharth for
M/s T.R. Rajaraman
R.5 : Not ready notice

JUDGMENT

The unsuccessful plaintiff, who lost his case, before the Courts below, has preferred this Second Appeal.

2. The plaintiff filed a suit for declaration and permanent injunction against the defendants' suit properties, belong to the second defendant. The first defendant is the money decree holder against the second defendant. Admittedly, the respondents 1 and 2/defendants 1 and 2 are the contesting parties in the above suit.

3. Both the Courts concurrently held against the plaintiff and as against the concurrent finding, the appellant/plaintiff filed the second appeal before this Court.

4. The learned counsel for the appellant would submit that during the pendency of the suit, in the year 1994, the first respondent died. Already the legal representatives of the first respondent were brought on record as respondents 3 to 7. However, no notice was served on the fifth respondent. The names of the other legal heirs are appeared in the cause list. Subsequently, the second respondent also died on 28.09.2001.

5. The appellant did not file any application to bring on record the legal representatives of the second respondent. Both the parties are not interested to pursue the case.

6. Since the appellant has not taken any steps to comply the service and also did not take any steps to bring on record the legal heirs of the second respondent, this second appeal is dismissed as abated and non-prosecution. No costs.

s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

sr

To

1. The Additional District Judge, Tiruvannamalai
2. The Principal District Munsif, Tiruvannamalai
3. The Record Keeper, VR Section, High Court, Madras (2 copies)

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NRI (CO)
SP (06/03/2018)

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