



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Tuesday, the Eighteenth day of September Two Thousand and Eighteen

PRESENT

The Hon`ble Mr.Justice C.V.KARTHIKEYAN

CMP(MD) No.11337 to 11339 of 2017

IN

SA No.1144 of 1995

CMP (MD) No. 11337/2017:

1 ROYAPPAN NADAR

2 ROSAMMAL

... PETITIONER /APPELLANTS

Vs

ASARIA NADAR

... RESPONDENT / RESPONDENT

Prayer in CMP(MD). 11337/ 2017 :

Civil Miscellaneous Petition filed to set aside the order dated 25/03/2013 in SA.No. 1144 of 1995 by this Honourable Court dismissing the above appeal and restore the same.

CMP (MD) No.11338 to 11339 of 2017:

1 ROYAPPAN NADAR

2 ROSAMMAL

... PETITIONER /PETITIONER APPELLANTS
(in Both CMPs)

Vs.

ASARIA NADAR (Died)

1.ANANDHI

2.SENTHIL ANITHA,

3.MINOR BENITTA

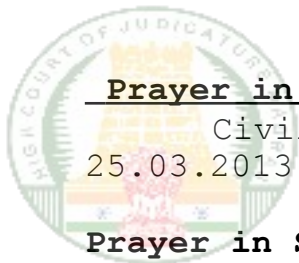
4.MINOR ARPUTHARAJ

5.MINOR MARY

6.MINOR ANTHIREYA

(Minor Respondents 3 to 6 Rep by Ist Respondent /Nature of Guardian)

... RESPONDENT in Both CMPs



Prayer in CMP(MD) No.11337 to 11338 of 2017 Common Prayer:

Civil Miscellaneous Petitions to set aside the order dated 25.03.2013 passed in MP(MD)No. 2 & 1 of 2010 in SA NO.1144 of 1995.

Prayer in SA. 1144/ 1995 :

The second Appeal filed under section of 100 C.P.C against the Judgment and Decree dated 31.10.1994 made in A.S.No.255 of 1994 on the file of the District Judge, Tuticorin and reversing the judgment and decree dated 11.09.1990 made in O.S.No.7/1982 on the file of the District Munsif Court, Srivaikundam.

ORDER:

These Miscellaneous Petition coming on for hearing on this day upon perusing the petitions and materials papers in this petitions and upon having the arguments of Mr.K.Chenziz Khan Advocate for the petitioner herein and Mr.R.J.Karthick, Advocate for the Respondent herein, this Court made the following order:

It is stated that the second appeal is of the year 1995. There are two civil miscellaneous petitions pending in M.P.(MD)Nos.1 and 2 of 2010. The second appeal and the two miscellaneous petitions were dismissed due to non-appearance of the learned counsel for the appellant. There was a delay in filing the application to restore the same. The said application was allowed and the delay was condoned by order dated 05.12.2017.

2.The present three civil miscellaneous petitions have been filed namely, C.M.P.(MD)Nos.11337 to 11339 of 2017 to set aside the order of dismissal passed in the second appeal and in M.P.(MD)Nos.1 and 2 of 2010. Since these are consequential applications, these applications are allowed.

3.The learned counsel for the appellant assured the Court that in the next hearing date, he would advance the argument in the second appeal itself. However, the second appeal No.1144 of 1995 is to be retained under the caption 'for dismissal'. Post the matter on 19.09.2018 'for dismissal'.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-IV)

Order Date :18.09.2018

Hearing Date:19.09.2018

ORDER

CMP(MD) No.11337 to 11339 of 2017
IN

SA No.1144 of 1995

Giving Direction etc., as stated within.