



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Friday, the Fifth day of October
Two Thousand Eighteen

PRESENT

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

CMP(MD) No.9827 of 2016
IN
SA No.565 of 2001

AROKIASAMY, ... PETITIONER/APPELLANT

Vs

1 AROKIYA MARY,

2 MAICHEL RAJ,

3 ALEXANDER ARPUTHAM CHARLES

4 MAICHEL, ... RESPONDENTS/RESPONDENTS

PRAYER IN CMP(MD) No.9827 of 2016:

Civil Miscellaneous Petition filed Under Order 41 Rule 19 of CPC, to set aside the order dated 24.08.2016 in SA No.565 of 2001 passed by this Hon'ble Court in dismissing the above second appeal.

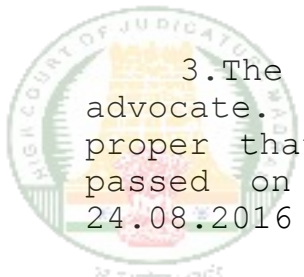
PRAYER IN SA No.565 of 2001:

The Second Appeal is filed under Section 100 of Code of Civil Procedure, against the judgment and decree dated 15.09.2000 in A.S.No.70 of 1999 on the file of the Additional District Judge and Chief Judicial Magistrate, Sivagangai.

ORDER : This Second Appeal coming on for hearing on this day, upon perusing the petition and affidavit and the material papers in this case and upon hearing the arguments of MR.G. PRABHU RAJADURAI, Advocate for the petitioner herein and MR.G.MANIKANDAN for M/S.A.L.GANDHI MATHI, Advocate for the 1 to 4 Respondents herein, this court made the following order:-

This application had been filed seeking to set aside the order of dismissal dated 24.08.2016 in S.A.No.565 of 2001. On 24.08.2016, the Second Appeal had come up for consideration before this Court. Since there was no representation on behalf of the appellant, this Court had dismissed the Second Appeal for default.

2.This application has been filed to restore the Second Appeal. In the affidavit filed in support of the said application, the appellant had stated that due to his illness and also the death of his wife, he could not able to meet the advocate. Consequently, the Advocate had returned the bundle by post.



3.The petitioner received the bundle and contacted the advocate. But he did not appear before the Court. It is just and proper that any litigant who comes to the Court desires an order passed on merits. Therefore, the order of this Court dated 24.08.2016 has to be set aside and the mater has to be restored.

4.In the result, the Second Appeal is restored and the same is posted for "final hearing" on 29.10.2018 finally.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS-II)

TO

1 THE ADDITIONAL DISTRICT JUDGE,
AND CHIEF JUDICIAL MAGISTRATE, SIVAGANGAI.

2 THE SUB COURT,
DEVAKOTTAI.

COPY TO
THE SECTION OFFICER,
V.R. SECTION, MADURAI BENCH OF MADRAS HIGH
COURT, MADURAI. (2 COPIES)

ORDER Date :05/10/2018
HEARING DATED : 29.11.2018

ORDER

CMP(MD) No.9827 of 2016
IN
SA No.565 of 2001

Giving Direction etc., as
stated within.

TR/SKN/SAR-I(24.10.2018)2P 5C