

HIGH COURT LEGAL SERVICES COMMITTEE, CHENNAI

Lok Adalat-II organised by the High Court Legal Services
Committee

Friday, the 12th July 2019

LOK ADALAT AWARD

(Chapter VI and u/s 21 of Legal Services Authorities Act, 1987)

Presided over by

The Honourable Mr.JUSTICE T.N.VALLINAYAGAM (Retd)
and

Members:-

1. Mrs.M.Usharani

S.A.No.1136 of 1993

Second Appeal has been filed against the judgment and decree dated 26.09.1990 made in A.S.No.4,6 and 7 of 1990 on the file of the learned Subordinate Judge, Chidambaram preferred against the judgment and decree dated 31.10.1989 made in O.S.No.280 of 1983 on the file of the learned District Munsif, Chidambaram.

Balasubramanian ... Appellant/Respondent/Plaintiff

Vs.

1. Uthirapathy (deceased)
2. Subbarayan
3. Gopal
4. Arul
5. Vijayaraghavan
6. Vijayalatha
7. Vijaya Geetha

(Respondents 4 to 7 are brought on record
as legal representatives of the deceased
1st respondent vide order of Court
dated 30.11.2005 made in C.M.P.Nos.15950
to 15952 of 2004)

.. Respondents/Appellants/Defendants

ORDER

The Second Appeal has been filed on 08.04.1991 and numbered in 1993. The suit is of the year 1983. The suit is for injunction restraining the defendants from disturbing the possession of the plaintiff. The Lower Court decreed the suit but the Appellate Court reversed the same and dismissed the suit. As against the same, the Second Appeal has been filed. As on date, the second appeal is pending for the last 26 years.

2. It is seen from the bundle that appellant died. R1 and R2 died. R3 is also dead. R4 refused to receive the summons. It is also seen from the bundle that the sole appellant is dead and reported to the Court on 06.03.2018. Till 23.11.2018, counsel for the appellant was not able to get proper instruction to proceed with the matter. The matter was called on 03.12.2018. Till now the bundle does not disclose any petition filed to bring the legal heirs of the deceased sole appellant with petition to set aside the abatement.

3. In view of the fact, no papers are available in the bundle to bring the legal heirs of the deceased sole appellant and to set aside the abatement. We feel that the second appeal stands abated and automatically stands dismissed. Hence recording the dismissal of the second appeal by virtue of law, the papers are sent to the Record Section. However it is open to the counsel for the appellant to file a petition to set aside abatement and proceed further to review the second appeal if so advised. Consequently connected miscellaneous petition/s is/are closed if any.

4. The full Court fee paid shall be refunded to the appellant in the manner provided under Section 69-A of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955 and the Court Fees Act, 1870 as provided for under sub Sec.1 of Section 21 r/w 25 of LSA Act 1987 as amended in 1994 and there shall be no demand for additional Court fee.

Sd/-
Judge

Sd/-
Member

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:The parties/Advocate concerned

Copy to:

- 1.The Secretary, High Court Legal Services Committee, Chennai.
- 2.The Section Officer, V.R.Section, High Court, Madras.
- 3.The Section Officer, Lok Adalat Section, High Court,
Madras.+2 copies
- 4.The Subordinate Judge, Chidambaram.
- 5.The District Munsif, Chidambaram.

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