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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

Thursday, the Twentieth day of June Two Thousand Nineteen

Present

The Hon`ble Mr.Justice R.PONGIAPPAN

CMP(MD). No.3251 to 3255 of 2019
in SA.Nos.1511, 1564,1644,1712 & 1732 of 2001

1. Krishnan,
2. Muthiah, (died)
3. Antony Ammal, (died)
4. Antony Annasamy,
5. Alangaram,
6. Angel Mary, ... Petitioners in all CMP(MD)s

- Vs. -

S.Ahamed Sali, ... Respondent(s) in CMP(MD). 3251/ 2019
S.Peer Pathu, ... Respondent(s) in CMP(MD). 3252/ 2019

1. Ummu Habiba (Died)
2. S.Shahul Hameed,
3. S.Peer Pathu,
4. S.Mohammed Abdullah,
5. S.Ahamed Sali,
6. S.Abdul Wahab, ... Respondent(s) in CMP(MD). 3253/ 2019

S.Sahul Hameed, ... Respondent(s) in CMP(MD). 3254/ 2019
S.Abdul Navab, ... Respondent(s) in CMP(MD). 3255/ 2019

Prayer in CMP(MD). 3251/ 2019 :
Miscellaneous Petition filed under Order 41 Rule 19 of Civil Procedure Code, to set aside the order made in the Second Appeal in S.A.No.1511 of 2001 which is dismissed for default by this Honourable Court dated 15.02.2019 and restore the same and thus render justice.

Prayer in CMP(MD). 3252/ 2019 :
Miscellaneous Petition filed under Order 41 Rule 19 of Civil Procedure Code, to set aside the order made in the Second Appeal in S.A.No.1564 of 2001 which is dismissed for default by this Honourable Court dated 15.02.2019 and restore the same and thus render justice.

Prayer in CMP(MD). 3253/ 2019 :
Miscellaneous Petition filed under Order 41 Rule 19 of Civil Procedure Code, to set aside the order made in the Second Appeal in S.A.No.1644 of 2001 which is dismissed for default by this Honourable Court dated 15.02.2019 and restore the same and thus render justice.

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Prayer in CMP(MD). 3254/ 2019 :
Miscellaneous Petition filed under Order 41 Rule 19 of Civil Procedure Code, to set aside the order made in the Second Appeal in S.A.No.1712 of 2001 which is dismissed for default by this Honourable Court dated 15.02.2019 and restore the same and thus render justice.

Prayer in CMP(MD). 3255/ 2019 :
Miscellaneous Petition filed under Order 41 Rule 19 of Civil Procedure Code, to set aside the order made in the Second Appeal in S.A.No.1732 of 2001 which is dismissed for default by this Honourable Court dated 15.02.2019 and restore the same and thus render justice.

SA.Nos.1511, 1564,1644,1712 & 1732 of 2001

1. Krishnan,
2. Muthiah, (died)
3. Antony Ammal, (died)
4. Antony Annasamy,
5. Alangaram,
6. Angel Mary, ... Appellants in All Second Appeals

- Vs. -

S.Ahamed Sali, ... Respondent(s) in SA.1511/2001
S.Peer Pathu, ... Respondent(s) in SA.1534/2001

1. Ummu Habiba (Died)
2. S.Shahul Hameed,
3. S.Peer Pathu,
4. S.Mohammed Abdullah,
5. S.Ahamed Sali,
6. S.Abdul Wahab, ... Respondent(s) in SA.1644/2001
(R2 to R6 are Brought as Lrs of the Deceased Sole Respondent as per order Dated 07.12.2018 in CMP(MD).11662/2018 in SA.No.1644/2001)

S.Sahul Hameed, ... Respondent(s) in SA.1712/2001
S.Abdul Navab, ... Respondent(s) in SA.1732/2001

PRAYER IN SA.1511/2001:
Second Appeal filed under section 100 of Civil Procedure code against the Judgment and Decree of the Principal District Court Tirunelveli made in AS.NO.54 of 1999 dated 21.12.2000 confirming the common Judgment and Decree of the first Additional District Munsif, Court, Tirunelveli made in OS.No.506 of 1995 dated 17.12.1998.

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PRAYER IN SA.1564/2001:

Second Appeal filed under section 100 of Civil Procedure code against the Judgment and Decree of the Principal District Judge, Tirunelveli made in AS.NO.58 of 1999 dated 21.12.2000 confirming the common Judgment and Decree of the first Additional District Munsif, Court, Tirunelveli made in OS.No.506 of 1995 dated 17.12.1998.

PRAYER IN SA.1644/2001:

Second Appeal filed under section 100 of Civil Procedure code against the Judgment and Decree of the Principal District Judge, Tirunelveli made in AS.NO.56 of 1999 dated 21.12.2000 confirming the common Judgment and Decree of the first Additional District Munsif, Court, Tirunelveli made in OS.No.504 of 1995 dated 17.12.1998.

PRAYER IN SA.1712/2001:

Second Appeal filed under section 100 of Civil Procedure code against the Judgment and Decree of the Principal District Judge Tirunelveli made in AS.NO.57 of 1999 dated 21.12.2000 confirming the common Judgment and Decree of the first Additional District Munsif, Court, Tirunelveli made in OS.No.510 of 1995 dated 17.12.1998.

PRAYER IN SA.1732/2001:

Second Appeal filed under section 100 of Civil Procedure code against the Judgment and Decree of the Principal District Judge, Tirunelveli made in AS.NO.54 of 1999 dated 21.12.2000 confirming the common Judgment and Decree of the first Additional District Munsif, Court, Tirunelveli made in OS.No.508 of 1995 dated 17.12.1998.

ORDER:- These Civil Miscellaneous Petitions coming on for orders on this day and upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of Thiru.C.VAKEESWARAN, Advocate for the Petitioners and of Thiru.M.P.SENTHIL, Advocate for the respondents, this Court made the following order:

These petitions have been filed to set aside the orders dated 15.02.2019 made in S.A.Nos.1511, 1564, 1644, 1712 and 1732 of 2001 respectively which are dismissed for default by this Court and restore the same.

2.Today, when the petitions are taken up for hearing the learned counsel appearing for the petitioners filed an additional affidavit stating that the second appellant namely Muthiah also died.

3.The submission made by the learned counsel for the petitioners is recorded.

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4.On the other hand, the learned counsel appearing for the respondent made an endorsement that he has no objection for allowing these petitions.

5.In view of the endorsement made by the learned counsel appearing for the respondent, these petitions are allowed and the second appeals are ordered to be restored on file.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

TO

1. The Principal District Judge, Tirunelveli.

2. The I Additional District Munsif, Tirunelveli.

Copy to

1. The Section Officer,Judicial Department,
   Madurai Bench of Madras High Court,
   Madurai.

2. The Section Officer,V.R.Section,
   Madurai Bench of Madras High Court,
   Madurai. (2 copies)

ORDER DATED : 20/06/2019

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ORDER

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CMP(MD). No.3251 to 3255 of 2019
in SA.Nos.1511, 1564,1644,1712
& 1732 of 2001

Giving direction and etc.
as stated within.

kmk(CO)
TR (18.07.2019) 8P 6C

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