



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Monday, the Twenty Ninth day of July Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice S.S.SUNDAR

CMP(MD) No.3318 of 2019
IN
SA(MD) No.SR10151 of 2019

1 A.UTHIRIYAM (DIED)

2 U.ANTHONY

... PETITIONER/ APPELLANT

Vs

1 A.ALOCIAS LIKORI JEROLD RAJA

2 JOHN PAUL UTHIRIYARAJA

RESPONDENTS 1 AND 2 REPRESENTED BY THEIR
POWER AGENT MARIYAMMAL

3 THE SUB REGISTRAR

SANNARPATTI SUB REGISTRAR OFFICE,
SANNARPATTI, DINDIGUL DISTRICT.

...RESPONDENTS/ RESPONDENTS

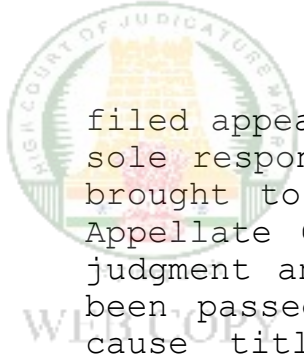
Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to accept the cause title in the above Second Appeal and thus render justice.

PRAYER IN SA(MD) No.SR10151 of 2019;

To set aside the judgment and decree dated 30.10.2018 passed in A.S.No.39 of 2012 on the file of the Principal Subordinate Court, Dindigul reversing the judgment and decree dated 15.02.2012 passed in O.S.No.534 of 2007 on the file of the Principal District Munsif, Dindigul.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.V.SANTHAKUMARESAN, Advocate for the petitioner and of Mr.M.THIRUNAVUKKARASU, Advocate for R1 & R2, and R3 not appeared either in person or by an advocate, the court made the following order:-

It is stated that the appellants' father is the plaintiff in the suit, who succeeded the suit and obtained the decree in O.S.No.534 of 2007. The respondent in the appeal appears to have



filed appeal in A.S.No.39 of 2012. When the appeal was pending, the sole respondent died on 25.10.2015. However, the said fact was not brought to the notice of the lower Appellate Court and the lower Appellate Court delivered the judgment on 30.10.2018. Hence, the judgment and decree of the Lower Appellate Court is nullity having been passed against the dead person. The petition to accept the cause title is therefore be allowed and the counsel for the respondent is informed that the appeal will be disposed of by setting aside the judgment and decree of the Appellate Court to regularize the proceedings before the lower Appellate Court.

2.This petition is allowed. Office is directed to number the appeal and post the second appeal for Admission on 31.07.2019.

sd/-
29/07/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO
1 THE PRINCIPAL SUBORDINATE JUDGE,
DINDIGUL

2 THE PRINCIPAL DISTRICT MUNSIF,
DINDIGUL.

COPY TO:

THE SUB ASSISTANT REGISTRAR, AE SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CMP (MD) No.3318 of 2019
IN
SA (MD) No.SR10151 of 2019
Date :29/07/2019

TK/PN/SAR-3/29.07.2019/2P.4C