



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

Friday, the Fifteenth day of February Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mrs.Justice J.NISHA BANU

CMP(MD) No.6761 of 2018
IN
SA(MD) No.SR44061 of 2015

KARUPPAYEE

... PETITIONER/APPELLANT

Vs

THIRUNAVUKKARASU

... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to pass an Order of Restoration to restore the present Second Appeal in SA.SR(MD) No.44061 of 2015 on the file of this Honourable High Court and thus render justice.

PRAYER IN SA(MD) No.SR44061 of 2015

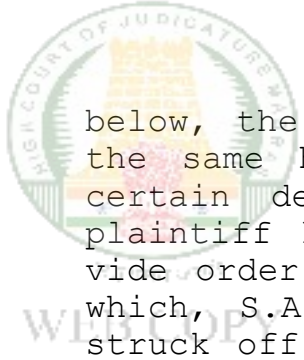
Allow the Second Appeal by setting aside the Judgment and Decree dated 01.04.2015 made in A.S.No.35 of 2011 on the file of the Learned Sub-Court, Ramanathapuram, confirming the Judgment and Decree dated 21.06.2011 made in O.S.No.96 of 2008 on the file of the Learned District Munsif Court cum Judicial Magistrate Court, Tiruvadanai and thus render justice.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.K.MAHARAJAN, Advocate for the petitioner and of No appearance for the respondent the court made the following order:-

This petition has been filed by the petitioner seeking to restore S.A(MD)SR44061 of 2015 on file, which was rejected, vide order dated 11.08.2016.

2.Heard the learned counsel for the petitioner.

3.Perusal of record shows that the petitioner / plaintiff filed the suit in O.S.No.96 of 2008 for the reliefs of declaration and mandatory injunction. The Trial Court has dismissed the suit. Against which, the petitioner / plaintiff filed A.S.No.35 of 2011 before the first appellate Court and the same was also dismissed. Against the concurrent Judgments and decrees passed by the Courts



below, the petitioner / plaintiff filed S.A(MD)SR44061 of 2015 and the same has been returned for several years for compliance of certain defects pointed out therein. Since the petitioner / plaintiff has not taken steps to rectify the same, the Registry, vide order dated 11.08.2016, granted time upto 29.08.2016, failing which, S.A(MD)SR44061 of 2015 would be rejected automatically and struck off from the file. Even thereafter also, the petitioner / plaintiff has not complied with the same. Therefore, S.A(MD)SR44061 of 2015 was rejected. Since, the suit is of the year 2008 and the petitioner / plaintiff has not complied with the direction made by the Registry for several years, this Court is not inclined to restore S.A(MD)SR44061 of 2015. Accordingly, this petition is dismissed.

sd/-
15/02/2019

/ TRUE COPY /

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

TO

- 1 THE DISTRICT MUNSIF COURT CUM
JUDICIAL MAGISTRATE COURT,
THIRUVADANAI.
- 2 THE SUBORDINATE JUDGE,
RAMANATHAPURAM.

COPY TO

THE SECTION OFFICER,
JUDICIAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to Mr.K.MAHARAJAN Advocate SR.No.47884

PS/PN/SAR-4/21.02.2019/2P/5C

ORDER
IN
CMP(MD) No.6761 of 2018
IN
SA(MD) No.SR44061 of 2015
Date :15/02/2019