

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 14.12.2020

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

A.S.No.274 of 1992
and
C.M.P.Nos.114/2009,11462/2005

Banumathy

.. Appellant

Vs.

1.Kalimuthu Ammal
W/o.Murugayyan

2.Jayaraman
S/o.Murugayyan

3.Lakshmanan
S/o.Murugayyan

4.Jeykumar
S/o.Murugayyan

5.Krishnammal
W/o.Nagarai

... Respondents

PRAYER: Appeal Suit is filed under Section 96 of C.P.C against the judgment and decree made in O.S.No.58 of 1988 and dated 18.12.1991 on the file of the Subordinate Judge, Myladuthurai.

For Appellant : Mr.M.V.Venkateshan

For Respondents : Mrs.P.Sreevidhya for R5
R1-died

R2 to R4- Notice dispensed with

J U D G M E N T

(The case has been heard through video conferencing)

This Appeal is filed for partition by one Banumathy seeking 1/6th share in the suit schedule property. The defendants are the mother and brothers of the plaintiff Banumathy.

2. The trial Court declared that the plaintiff is entitled for 1/6th share in 3rd item property in Serial Nos.4 to 8. Consequently preliminary decree for rendition of account and division of property by metes and bounds was decreed. Against which, the First Appeal is filed by the plaintiff

against denial of her right in item Nos.1 and 2 of "A" schedule property.

3. The sole appellant Banumathy died on 02.06.2014. When the matter came up for hearing on earlier occasion, this Court on the representation of the appellant granted time to take necessary steps.

4. Today, when the matter was listed along with S.A.No.2118 of 2001, the learned counsel for the appellant submitted that the legal representatives of the deceased sole appellant has not shown any interest to pursue the matter.

5. It is also brought to the notice of this Court by the learned counsel for the 5th respondent that there is no instructions from the legal representatives of the 5th respondent Krishnammal, who died on 11.11.2019.

6. From the previous proceedings, this Court finds that already notice to the respondents 2 to 4 were dispensed with at the request of the learned counsel for the appellant.

7. In the light of the above fact that the contesting sole appellant and the 5th respondent died and no steps taken to bring the legal representatives of the respective parties even after the period of limitation, the Appeal Suit is dismissed as abated. Consequently, connected miscellaneous petitions are also closed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

rpl

To
The Subordinate Judge, Myladuthurai.

+1cc to Mr.M.V.Venkateshan, Advocate SR.No. 40654
+1cc to Mr.A.Muthukumar, Advocate SR.No. 41238

A.S.No.274 of 1992
and
C.M.P.Nos.114/2009, & 11462/2005

A.SK(12.03.2021)