

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2020

CORAM:

THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

CMP No.6255 of 2020
in S.A.SR No. 8073 of 2009

A.Subramaniam (Died)

1. S.Kaliammal

2. R.Saroja Devi

3. T.Thirumathal

4. S.Avanappan ..Petitioners/Appellants

Vs.

M.Deivathal ..Respondent/Respondent

PRAYER: Civil Miscellaneous Petition filed under Section 151 of the Code of Civil Procedure Code to accept the cause title given in SA.SR. 8073 of 2009 on the file of this Court filed against the judgment and decree dated 29.08.2008 made in AS.No.35 of 2005 on the file of the Sub-Court, Udumalpet by partly allowing the modifying the judgment and decree dated 30.09.2005 made in O.S.No.139 of 1994 on the file of the District Munsif Court, Udumalpet.

For Petitioners/Appellants : Mr.D.Gopal

J U D G M E N T

This civil miscellaneous petition has been filed seeking to accept the cause title in the appeal, it is seen that SA SR was presented on 30.01.2009, the appellant was alive at the time. The appeal papers were returned for certain defects, when they were sought to be represented in 2020, the appellant had died. Therefore, the counsel has come up with this application seeking to accept the cause title.

2. I do not think this application is maintainable. The question of accepting the cause title will arise only when there is a difference in the cause title shown in the decree of the Appellate Court or the Trial Court and the cause title in the First Appeal or the Second Appeal filed in this Court as the case may be. That is not the case on hand. Admittedly the Appellant was alive when the appeal was filed originally. Therefore, the proper applications that should be filed is only applications to condone the delay in setting aside abatement, setting aside abatement and to bring on record the LR's in the Appeal.

3. Hence this petition is dismissed as misconceived with liberty to the counsel for the appellant to file appropriate application as indicated above. Accordingly, the Second Appeal is rejected at SR stage itself.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

jv

To

1. The Sub-Court,
Udumalpet
2. The District Munsif Court,
Udumalpet.
3. The Section Officer,
V.R.Section,
Madras High Court.
4. The Sub Assistant Registrar,
A.E. Section,
High Court, Madras.

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LN(CO)

GMV(11/06/2020)