



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

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C.M.A. (MD) No.1279 of 2007

S.Saveri Cruz (died)
S.Thomas Christopher

... Appellant

-vs-

Shagul Hameed

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 104 r/w Order 43 Rule 1(K) of the Code of Civil Procedure, to set aside the order dated 04.09.2006, passed in I.A.No.170 of 2006 in O.S.No.183 of 2004, on the file of the I Additional District Judge, Madurai.

For Appellant : Mr.J.Lawrence

For Respondent : No appearance

J U D G M E N T

This civil miscellaneous appeal is directed against the order dated 04.09.2006, passed in I.A.No.170 of 2006 in O.S.No.183 of 2004, on the file of the I Additional District Court, Madurai.

2. The appellant is the legal representative of the original plaintiff Saveri Cruz and the suit was instituted for recovery of money. During the pendency of the suit, the original plaintiff died on 01.02.2002. Since the legal heirs of the deceased plaintiff were not brought on record in time, the application in I.A.No.35 of 2005 was filed seeking condonation of delay to bring the legal representatives of the deceased plaintiff on record. That application was dismissed by the Trial Court vide order dated 04.09.2006. In consequence thereof, the application in I.A.No.170 of 2006 filed to set aside the abatement was also dismissed and the said order is under challenge in the present civil miscellaneous appeal.

3. A perusal of the cause list shows that C.R.P.(MD) Nos.487 and 493 of 2008 filed challenging the orders passed in Section 5 applications were dismissed for default on 05.06.2012. Hence, nothing survives for consideration in this civil miscellaneous



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appeal and the same is therefore, dismissed. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

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Sub Assistant Registrar(CS)

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the Judgment may be utilized for official purposes, but, ensuring that the copy of the Judgment that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

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To:

The I Additional District Judge,
Madurai.

Copy to:

The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2C)

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01.12.2020

sss(CO)

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