



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 04.09.2020
CORAM
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

S.A(MD)No.185 of 2009
and
M.P(MD)Nos.1 of 2009 and 1 to 3 of 2012

1.Roche Victoria
2.M.Ammakkannu

... Appellants /Plaintiffs

Vs.

M.Vedanayagam (died)

... Respondent / Defendant

PRAYER: Second Appeal filed under Section 100 of C.P.C., against the judgment and decree, dated 15.07.2008, passed in A.S.No.34 of 2007 by the Sub Court, Paramakudi confirming the judgment and decree, dated 06.07.2007 passed in O.S.No.132 of 2005 by the District Munsif Court, Paramakudi.

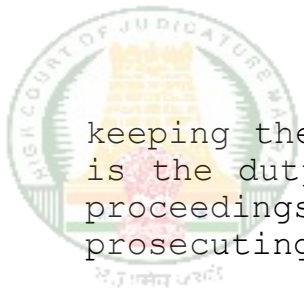
For Appellants : No Appearance

For Respondent : No Appearance

JUDGMENT

The appellants / plaintiffs filed the suit in O.S.No.132 of 2005 for the relief of permanent injunction. The Trial Court dismissed the suit. Against which, the appellants / plaintiffs filed A.S.No.34 of 2007 before the first appellate Court and the same was also dismissed. Against the concurrent Judgments and decrees passed by the Courts below, the appellants / plaintiffs have filed this second appeal.

2.The suit is of the year 2005. This second appeal has been filed against the concurrent judgments and decrees passed by the Courts below in the year 2009. Pending second appeal, the sole respondent died on 05.09.2010 and M.P(MD)No.1 of 2012 has been filed on 24.04.2012 seeking to condone the delay of 440 days in filing a petition to set aside the abatement caused due to the death of the sole respondent. When the matter came up for hearing on 21.08.2020, the learned counsel for the appellants submitted that he has handed over the bundle to the appellants and recording the same, notice was ordered to the appellants. Despite notice being served on the first appellant and her name is being printed in the cause list, there is no representation on behalf of her either in person or through counsel. The notice sent to the second appellant has been returned with an endorsement 'left'. As there is no representation on behalf of the first appellant and the notice sent to the 2nd appellant has been returned with an endorsement 'left', this Court is of the view that no useful purpose would be served in



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keeping the second appeal pending. It is needless to say that it is the duty of the party to approach the counsel and to follow the proceedings. It appears that the appellants are not interested in prosecuting the matter further.

3. In view of the above, this second appeal is dismissed for non-prosecution. Consequently, connected M.P(MD)Nos.1 of 2009 and 1 to 3 of 2012 are also dismissed. No costs.

Sd/-

Assistant Registrar (P AND A)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

smn

To

1.The Sub Judge,
Paramakudi.

2.The District Munsif,
Paramakudi.

Copy to:

The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.(2 Copies)

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