



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Friday, the Twenty Fifth day of September Two Thousand and Twenty

PRESENT

The Hon`ble Mrs.Justice J.NISHA BANU

CMP(MD) . No.9313 of 2019
in
SA.No.1469 of 1999

Idol of Ayyanar,
Pandamangalam, Woriyur,
Rep by its Manager and Controller
A. Soman S/o. Arunachala Achari,
16/2 Karikudi Street, Pandamangalam,
Tiruchirappali.

... Petitioner/Appellant

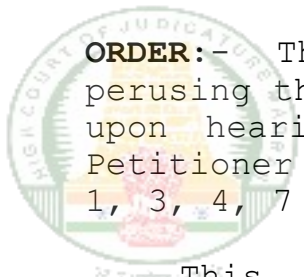
Vs

- 1 Marimuthu
- 2 Vellaiammal (Died)
- 3 Logavinayagam
- 4 Jyothi
- 5 Ponnammal (Died)
- 6 Vijaya
- 7 Kumar
- 8 Minor Santhi, D/o.Late Mani
Rep by Guardian and Mother of Ponnammal
- 9 Marimayee (Died)
- 10 Pushpam (Died)
- 11 Ganesan
- 12 Thetchu Alias Dakshinamurthy
- 13 Usha Rani

... Respondents/Respondents

Prayer : This Petition filed under order 41 Rule 17 of CPC r/w under section 151 CPC to set aside the dismissal order as against the appellant dated 06.03.2019 and restore the same on the file of this Hon'ble Court.

Prayer in SA. 1469/ 1999 : Second Appeal filed under section 100 of CPC to set aside the decree and judgment dated 13/3/1998 made in A.S.No.72 of 1995 on the file of the District Judge, Trichy (III Additional District Judge) confirming the Judgment and Decree dated 23/12/1993 made in O.S.No.1848 of 1979 on the file of District Munsif, Trichy (II Additional District Munsif).



ORDER:- This Petition coming upon for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Thiru.A.Sivaji, Advocate for the Petitioner and of Thiru.V.Ramakrishnan, Advocate for Respondent Nos. 1, 3, 4, 7 & 11, this Court made the following order:

This petition has been filed by the petitioner/appellant seeking to set aside the dismissal order, dated 06.03.2019, made in S.A.No.1469 of 1999, which was dismissed for non-prosecution.

2.In earlier occasion, the learned counsel for the petitioner represented that bundles has been given to the petitioner and therefore, this Court ordered notice to the petitioner. Despite notice being served on the petitioner and his name is being printed in the cause list, today there is no representation on behalf him either in person or through counsel.

3.The suit is of the year 1979. This second appeal has been filed against the concurrent judgment and decree passed by the Courts below. When the second appeal came up for hearing on 06.03.2019, there was no representation on behalf of the petitioner / appellant and therefore, this second appeal was dismissed for default. Thereafter, the petitioner filed this petition seeking to restore the second appeal. As there is no representation on behalf of the petitioner / appellant today, this Court is of the view that no useful purpose would be served in keeping the matter 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 petitioner is not interested in prosecuting the matter further.

4.In view of the above, this petition is dismissed for non-prosecution.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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



To

1.The III Additional District Judge, Trichy.

2.The II Additional District Munsif, Trichy.

Copy to: The Section Officer, Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.(2)

+1cc to Mr.V.Ramakrishnan, Advocate, SR.No.18048.

ORDER DATED : 25/09/2020

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ORDER
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in
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Giving direction and etc.
as stated within.

KM(CO)
CS(13.10.2020) 3P 6C