



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Civil Appellate Jurisdiction)

Wednesday, the Twenty Ninth day of July Two Thousand and Twenty

WEB COPY

PRESENT

The Hon'ble Mrs.Justice J.NISHA BANU

CMP(MD) . No.4060 of 2018

in

SA(MD) .No.1029 of 2005

1. Nambikkai

2. S. Jerald Raja

3. S. Robert

... Petitioners/Appellants

Vs.

1. Agastin

2. Amalraj

... Respondents/Respondents

Prayer in CMP(MD) . No.4060 of 2018 :-

Civil Miscellaneous Petition filed under Order 41 Rule 19 read with section 151 of Civil Procedure Code, praying this Hon'ble Court to restore the above Second Appeal(MD).No.1029 of 2005 by setting aside the order of the dismissal dated 04/11/2016.

Prayer in SA(MD).No.1029 of 2005:

Second Appeal filed under Section 100 of CPC to set aside the judgment and decree dated 17.03.2004 made in A.S.No.167 of 1999 on the file of the Additional District Judge - cum - Session Court (Fast Track), Dindigul, confirming the decree and judgement dated 05.03.1997 made in O.S.No.33 of 1993 on the file of the Principal Subordinate Judge, Dindigul.

ORDER :-

Civil Miscellaneous Petition is coming on for hearing on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.B.Prahalad Ravi, Advocate for the Petitioners and of Mr. S.Natarajan, Advocate for the respondents this Court made the following order:

The present petition has been filed to restore the above second appeal which was dismissed for non prosecution on 04.11.2016.

2.Earlier, the second appeal was dismissed for non prosecution on 04.04.2016 and pursuant to the order passed in the restoration petition filed on 07.06.2016, the second appeal was restored to file on 18.10.2016. Again, on the second time, the second



appeal was dismissed for non prosecution on 04.11.2016 and there was a delay of 75 days in filing the second restoration petition which was condoned by order dated 14.03.2018 subject to payment of cost of Rs.500/- to the High Court Legal Services Committee. Now, the second restoration petition has been listed today.

3. Being satisfied with the reasons stated in the affidavit filed in support of the restoration petition and since the delay has already been condoned on cost, this petition for restoration is allowed and the second appeal is restored to file.

4. List the second appeal for final disposal in the first week of January 2021.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

To

1. The Additional District Judge - cum - Session Judge,
(Fast Track), Dindigul
2. The Principal Subordinate Judge, Dindigul.

Copy to:

- 1 The Record Keeper, VR Section, Madurai Bench of Madras High Court, Madurai. (2 Copies)
- 2 The Section Officer, Judicial Section,
Madurai Bench of Madras High Court, Madurai.
(For information)

ORDER DATED : 29/07/2020

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RESTORED

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CMP(MD).No.4060 of 2018

in

S.A(MD).No.1029 of 2005

Giving direction and etc.
as stated within.

SDS (19.08.2020) 2P-6C

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