



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2021

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

S.A. No.571 of 2009

and

MP.No.1 of 2009

R.Ruckmani

...Appellant

Vs.

1. R.Senthilkumar
2. R.Gunasekaran
(Mentally retarded)
3. K.S.Jameel Sheriff,
Son of Sheriff,
"Time Palace"
63/105, Commercial Road,
Dotachamud.

...Respondents

PRAYER : The Second Appeal filed under Section 100 C.P.C., against the Judgement and Decree of the District Judge and Appellate Authority of the Nilgiris at Uthagamandalam dated 31.12.2008 in A.S.No.19 of 2008, confirming the judgement and decree of the Subordinate Judge's Court at Nilgiris dated 12.11.2007 in O.S.No.37 of 2006.

For Appellant	:	M/S.Gayathri for Sarvabhauman Associates
For Respondents	:	Mr.C.Santhosh Kumar for R1 : No appearance for RR2 and 3

JUDGEMENT

(Heard through video conferencing)

This Second Appeal is filed to set aside the judgement and decree of the learned District Judge and Appellate Authority of the Nilgiris District at Uthagamandalam dated 31.12.2008 in A.S.No.19 of 2008, confirming the judgement and decree of the Subordinate Judge's Court at Nilgiris, dated 12.11.2007 in O.S.No.37 of 2006.

2. Both side learned counsels present.



3. The learned counsel for the 1st respondent submitted that when the matter was posted on 13.08.2021, on the representation made by the learned counsel for the appellant that the matter settled out of Court and an order has been passed as under:

WEB COPY

"The learned counsel for the appellant submitted that the matter in issue is settled out of Court and hence, the appeal may be dismissed.

2. In view of the above submission, the Second Appeal is dismissed as settled out of Court."

4. Now the learned counsel for the 1st respondent submitted that the matter has not been settled out of court as reported by the learned counsel for the appellant. Hence this matter is listed in the additional list.

5. The learned counsel for the appellant who is also present today, submitted that the connected matter between the parties has been settled and hence, the learned counsel has mistaken by stated that this matter has also been settled. It is further clarified by the learned counsel for the appellant that since the appellant has stopped instructing the counsels; it is reliably presumed that the matter is settled out of Court.

6. It is also clarified by the learned counsel for the 1st respondent that the matter which has been settled in the connected matter relates to ground floor of the property and this subject matter pertains to the 1st floor.

7. Taking into consideration, the submissions made by the respective learned counsels and taking into account of no instruction now reported by the learned counsel appearing for the appellant, the order of dismissal that has been passed on 13.08.2021 is modified to the effect that the Second Appeal is dismissed for non prosecution. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

jrs



To

1. The District Judge and Appellate Authority
Nilgiris, Uthagamandalam
2. The Subordinate Judge's Court at Nilgiris
3. The Section Officer,
V.R.Section,
High Court,
Madras.

S.A. No.571 of 2009
and
MP.No.1 of 2009

SMI (CO)
LS (15/09/2021)