



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

O.S.A.No.366 of 2012 and M.P.No.1 of 2012

K.Rajendran

...Appellant

-vs-

1. A.Zakir Hussain
2. Jales Ragman
3. Abutha Nachi
4. A.Riswana
5. Syed Musamie

...Respondents

Original Side Appeal filed under Order 36 Rule II of Original Side Rules read with Clause 15 of the Letter Patent against the judgment and decree dated 27.9.2011 passed in C.S.No.271 of 2001.

For Appellant : No appearance

For Respondents : No appearance

JUDGMENT

(Judgment of the Court was pronounced by T.RAJA, J.)

This Original Side Appeal has been filed against the judgment and decree dated 27.9.2011 passed in C.S.No.271 of 2001 by a learned Single Judge of this Court, thereby declining to grant the relief of specific performance as prayed for by the appellant herein.

2. A perusal of the Notes Paper would go to show that on 10.02.2021, Mr.E.Jaya Sankar, learned Counsel represented that he has given a change of vakalath to the appellant and also filed a memo to that effect. Therefore, Registry was directed to verify whether any counsel has filed change of vakalath for the appellant and if it was so, directed to print the name of the newly entered learned Counsel or otherwise print the name of the appellant in the cause list and delete the name of Mr.E.Jaya Sankar, learned Counsel for the appellant on record.



Subsequently, it appears that when the matter was listed on 16.02.2021, in spite of the name of the appellant has been printed in the Cause List, there was no representation on behalf of the appellant. Therefore, the matter was ordered to be listed under the caption, 'for dismissal' on 09.03.2021 and from 09.03.2021, the matter was adjourned to 18.03.2021, since there was no representation on behalf of the appellant.

3. On.23.03.2021, one Mr.Vivek, learned Counsel, has undertaken to file vakalath on behalf of the appellant and also represented that the sole appellant died, therefore, to file a petition to bring on record the legal heirs of the deceased sole appellant, sought for time. Thereafter, though the matter was adjourned several times, no steps have been taken by the learned Counsel for the appellant to bring on record the Legal Heirs of the deceased sole appellant. Subsequently, the matter was adjourned to 02.12.2021 by an order dated 11.11.2021 at the request of the learned Counsel for the appellant to take further steps to bring on record the legal heirs of the deceased appellant.

4. Accordingly, when the matter was called on 02.12.2021, there was no representation on either side. Therefore, the matter was ordered to be listed on 03.12.2021, under the caption, 'for dismissal'. Even today, when the matter was called, there was no representation on either side. The non-representation on the side of the appellant shows they are not interested in prosecuting this matter. Therefore, the Original Side Appeal is dismissed for non-prosecution. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

The Sub Assistant Registrar,
Original Side,
High Court,
Madras-104.

OSA.No.366/2012

SV (CO)
PR (22/12/2021)