

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2021

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

A.S.No.504 of 2006

1.Krishnasamy Chettiar
2.Revathi
3.Indirani ... Appellants/Defendants

Vs.

1.Jayalakshmi
2.Baby Saroja
3.R.K.Ramadoss ... Respondents/Plaintiffs

PRAYER: Appeal Suit is filed under Section 96 of C.P.C against the judgment and decree dated 31.01.2006 made in O.S.No.59 of 2004 on the file of Additional District Court, Pondicherry at Karaikal.

For Appellants : No appearance

For Respondents : No appearance

J U D G M E N T

The Appeal Suit is filed by the defendant, who lost their case in the suit for declaration.

2. The plaintiff is the absolute owner of the suit property. For recovery of possession and for other relief, the suit was presented on 16.09.2004 and taken on file in O.S.No.59 of 2004 by the learned Additional District Judge, Pondicherry at Karaikkal. After full trial, decree in favour of the plaintiff was passed on 31.01.2006.

3. Aggrieved by that, the defendant filed the present Appeal before this Court on 12.06.2006, it was numbered as A.S.No.504 of 2006. When the matter listed before this Court for non payment of plaint bill, there was no representation on behalf of the appellants. Therefore, this Court on 23.06.2008 passed the following order:

"The direction of the Registry was not complied with. Hence, this matter was listed before this Court on 22.04.2008. From 22.04.2008, further time was granted upto 28.04.2008 for payment of pleading bill amount stating that in default, this appeal will be posted for dismissal on 30.04.2008. On 30.04.2008 on oral request made by the counsel for the appellant, time was extended till 20.06.2008. Till date, pleading bill amount has not been paid. Further, there is no representation on behalf of the appellant. Hence, the appeal is dismissed for non-prosecution."

4. Thereupon, the appellants filed M.P.No.2 of 2009 to re admit the appeal, which was dismissed on 23.06.2008. This Court after considering the submissions made by the learned counsels for the appellants and the respondents allowed the miscellaneous petition and restored the Appeal Suit vide order dated 11.06.2009, granting time to the appellant to pay the pleading bill within one week. When the matter was listed for final disposal on 16.02.2017, there was no representation. Hence, this Court adjourned the matter to next day under the caption for dismissal. There was no appearance for the appellants on 17.02.2017 also. Therefore, the Court dismissed the appeal recording the absence of the appellants' counsel for two consecutive hearings.

5. The order of dismissal was again sought to be set aside by the appellants and prayed for restoration in C.M.P.No.6521 of 2020. This Court allowed the said petition to set aside the order of dismissal dated 17.02.2017. For the second time the appeal was restored on file, which was dismissed for non-prosecution. The order of this Court passed in C.M.P.No.6521 of 2020 in A.S.No.504 of 2006 dated 14.10.2020, reads as below:

"This petition is filed to set aside the order dated 17.02.2017 passed in A.S.No.504 of 2006 which was dismissed for non-prosecution.

This Court is convinced with the reasons stated in the accompanying affidavit filed in support of this petition. Hence, this petition is ordered."

6. After restoring appeal for the second time, when the matter is listed for final hearing today, there is no representation for the appellants. From the records as narrated above, the appellant has not shown any interest to proceed dismissal for default and got restore for the third time. This Court is not inclined to show any further indulgence. Hence, the Appeal Suit is dismissed for non prosecution. No costs.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

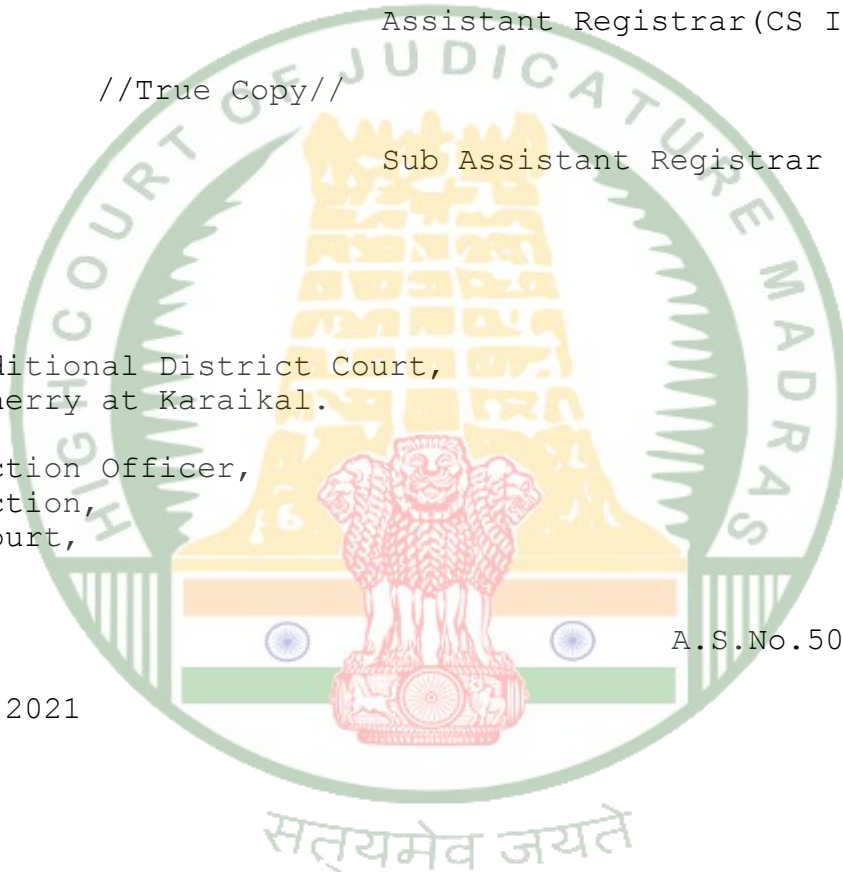
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To

1. The Additional District Court,
Pondicherry at Karaikal.
2. The Section Officer,
V.R.Section,
High Court,
Madras.

GP(CO)
CSR 19.03.2021

A.S.No.504 of 2006



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