



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2021

CORAM:

**THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MRS.JUSTICE S.KANNAMMAL**

A.S (MD)No.22 of 2012

and

M.P (MD)No.1 of 2012

Jebamani Selvakumar ... Appellant/Defendant
Vs.

1.S.Radha (died)
Through her power agent,
G.Vinoth Kumar.

2.R.Uma

3.Vinoth Kumar

... Respondents

(RR 2 & 3 are brought on record as Lrs of the deceased
sole respondent vide order dated 25.07.2017
made in C.M.P(MD)Nos.11381 to 11383 of 2016)

Prayer: Appeal Suit filed under Section 96 of the Code of Civil
Procedure, against the Judgment and Decree made in O.S.No.32 of
2011, on the file of the Additional District and Sessions Court,
Fast Track Court No.I, Tirunelveli, dated 29.11.2011.

For Appellant	: No appearance
For RR 2 & 3	: Mr.D.Nallathambi

JUDGMENT

**(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)**

The learned counsel appearing for the respondents 2 and 3 would
submit that the Appeal Suit is filed against the decree granted in a
suit for mortgage. The decree was put in execution and the sale was
also effected and it is posted for delivery of possession and
therefore, the Appeal Suit has become infructuous.

2. There is no representation for the appellant, consecutively
for the third occasion.

3. Though the matter is listed today under the caption 'for
diversion of suit to civil court', there is no representation for the appellant. Hence, the



Appeal Suit is dismissed for non-prosecution. No costs.
Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (W)

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/ /2021

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 Additional District and Sessions Court,
Fast Track Court No.I,
Tirunelveli.
- 2.The Record Keeper, (2C)
VR Section,
Madurai Bench of Madras High Court,
Madurai.

A.S (MD)No.22 of 2012
12.03.2021

SSS (CO)
KB (23.03.2021) 2P 4C