



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

S.A.(MD)No.158 of 2012

and

M.P.(MD)No.1 of 2012

WEB COPY

C.Krishnakumar

... Appellant

-Vs-

1.Kohinoor Financiers & Chits,
Karur, Rep. by its Partner A.R.Shiek Dawood,
S/o.Abdul Rahimaan,
326/6, Jawahar Bazaar,
Karur.

2.V.P.Balasubramani

...Respondents

PRAYER: Second Appeal is filed under Section 100 of the Civil Procedure Code, against the Judgment and Decree dated 20.07.2011 made in A.S.No.9 of 2010 on the file of the Principal Subordinate Judge, Karur, reversing the Judgment and Decree dated 09.11.2009 made in O.S.No.705 of 2007 on the file of the Principal District Munsif Court, Karur.

For Appellants	: Mr.P.Rajagopalan
For R1	: Mr.K.Govindarajan
For R2	: Mr.G.Sridharan

JUDGMENT

The second defendant in O.S.No.705 of 2007 on the file of the Principal District Munsif, Karur is the appellant in the second appeal. The suit was instituted by the first respondent firm. The suit was dismissed as against the first defendant.

2.When the matter was taken up for final hearing, the learned counsel for the respondents submitted that the main partner Thiru.A.R.Shiek Dawood who represented the plaintiff firm had passed away. The learned counsel for the first respondent is unable to give further details such as date of demise, the persons who stepped into his shoes as his representatives etc. Therefore, the appellant is not in a position to take steps to bring the legal heirs of A.R.Shiek Dawood on record. Hence, the second appeal is dismissed as having abated. However, I must protect the rights of the appellant also. Since the second appeal is dismissed as abated, the decree passed against the appellant remains on record. If the said decree is sought to be enforced in future by the persons who step



into the shoes of A.K.Shiek Dawood, then, the appellant will have the liberty to move this Court again for setting aside the abatement. I have no doubt that any such application if filed by the appellant will be allowed and the second appeal will be disposed of on merits.

3.With this observation and liberty, the second appeal is dismissed as abated. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmi

To

- 1.The Principal District Munsif , Karur.
- 2.The Principal Subordinate Judge, Karur.
- 3.The Section Officer-2 copies
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to MR.G.SRIDHARAN, Advocate (SR-18004[F] dated 29/04/2021)

+1 CC to MR.K.GOVINDARAJAN, Advocate (SR-18105[F] dated 30/04/2021)

+1 CC to MR.R.DEVARAJ, Advocate (SR-18189[F] dated 30/04/2021)

Judgment made in
S.A.(MD)No.158 of 2012
and
M.P.(MD)No.1 of 2012
29.04.2021

KM(31.05.2021) 2P 8C