



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2021

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

S.A.(MD)No.161 of 2021

1.Glory

2.Wilson

....Appellants

Vs.

1.Hepsi Bai

2.Sulochana

.... Respondents

PRAYER:- Second Appeal filed under Section 100 of Code of Civil Procedure, against the Judgment and Decree dated 26.11.2020 made in A.S.No.119 of 2014, on the file of the Subordinate Court, Kuzhithurai as dismissed for non-prosecution against the judgment and decree dated 20.08.2014, made in O.S.No.491 of 2010, on the file of the Principal District Munsif, Kuzhithurai.

For Appellants : Mr.S.Sivakumar

J U D G M E N T

This Second Appeal has been filed against the judgment and decree of the Appellate Court, in and by which, the Appellate court dismissed the suit for non-prosecution.

2.The remedy of the appellants is to seek restoration of the appeal, under Order 41 Rule 19 of Civil Procedure Code.

3.No doubt, an appeal would lie an exparte decree or order dismissing the suit/appeal for default. But, since there is no judgment on merits, there cannot be a question of law, much less a substantial question of law in this appeal, that would arise based on the conclusions of the Appellate Court as contemplated under Section 100 of Civil Procedure Code.



WEB COPY

S.A.(MD)No.161 of 2021

4.Hence, this Second Appeal is dismissed. This dismissal will not preclude the appellant from seeking restoration of the appeal that was dismissed for default. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vrn

To

1.The Subordinate Judge, Kuzhithurai.

2.The Principal District Munsif, Kuzhithurai.

3.The Section Officer-2 copies

VR Section, Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.S.SIVAKUMAR, Advocate (SR-10475[F] dated 11/03/2021)

Judgment made in
S.A. (MD)No.161 of 2021
Dated 10.03.2021

KM (24.03.2021) 2P 6C