



WEB COPY



S.A.No.71 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2022

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

S.A.No.71 of 2022
and C.M.P.Nos.7785 and 9252 of 2022

K.L.Sinnu Reddy

.. Appellant

-Vs.-

1.K.L.Siddu Reddy

2.S.K.P.Muruagan

.. Respondents

Prayer: Second Appeal is filed under Section 100 of C.P.C., against the Judgment and decree dated 15/03/2021 passed in A.S.No.60 of 2015, on the file of the Sub-Judge, Bhavani, Erode District, confirming the Judgment and Decree dated 04/01/2014, passed in O.S.No.433 of 2010 on the file of the Principal District Munsif's Court Bhavani, Erode District.

For Appellant : Mr.M.Santhanamari

For Respondents : Mr.V.Lakshminarayanan
for Mr.R.Jeyaram for R1
Mr.N.Manokaran for R2



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JUDGMENT

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When the matter is taken up for hearing today, it is pointed out by the learned counsel appearing for the respondents that this second appeal has been filed against a dead person. It is also informed that a connected Second Appeal in S.A.No.469 of 2019 filed by the very same appellant is pending. The appellant had died on 06.05.2021 and the present second appeal has been numbered on 23.12.2021 after the death of the appellant. Therefore, the learned counsel for the appellant ought to have filed the appeal with a petition to accept the cause title. Ultimately, the learned counsel was kept informed about the same and as a result, the appeal has been filed in the name of the dead person. Once the mistake is pointed out in the form of C.M.P.No.9252 of 2022, namely, to dismiss the second appeal, steps have been taken to bring on record the legal representatives of the deceased appellant, such a petition is not maintainable. If the death has occurred even before the filing of the appeal and the appellant ought to have taken out a petition to accept the cause title, the learned counsel for the appellant seeks permission of this Court to withdraw the second appeal seeking liberty to file a second appeal with the condone delay petition.



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2. Considering the fact that the connected S.A.No.469 of 2019 is also pending, the request made by the learned counsel for the appellant is granted. Therefore, the second appeal is dismissed as withdrawn granting liberty to the appellant to file a fresh Second Appeal with the condone delay petition. No costs. Consequently, connected miscellaneous petitions are closed.

14.09.2022

To

1. The Sub-Judge,
Bhavani,
Erode District.

2. The Principal District Munsif Court,
Bhavani,
Erode District.



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P.T.ASHA, J.,

srn

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