



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2022

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

S.A(MD) .No.174 of 2011

and

M.P(MD) .No.1 of 2011

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Devi Ammal Silva

... Appellant/Appellant/2nd Defendant

Vs.

1.Terance Villavarayar
2.Mery Gomez
3.Immaculate
4.Reena
5.Peter Regan
6.Anu
7.Arwin
8.Darwin
9.Silvin
10.Flavin
11.Enastin

... Respondents/Respondents
1,4,6 to 14/1st Plaintiff-3rd Defendant-
LRs of the Deceased 4th Defendant and 2nd
Plaintiff

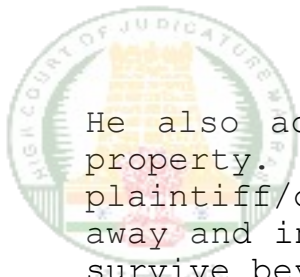
Prayer : Second Appeal filed under Section 100 of Code of Civil Procedure, to set aside the decree and the judgment dated 17.08.2010 rendered in A.S.NO.31 of 2006 on the file of the Additional District Judge cum Fast Track Court No.1, Tuticorin confirming the decree and the judgment dated 23.03.2006 rendered in O.S.No.17 of 1999 on the file of the Subordinate Judge, Tuticorin by allowing this second appeal.

For Appellant	: No appearance
For R1	: Mr.M.P.Senthil
For R2 to R11	: No appearance

JUDGMENT

The suit in O.S.No.17 of 1999 was laid by two plaintiffs to seek the appointment of the first plaintiff as a Trustee to manage certain charities created under a settlement deed dated 11.10.1941, by certain Soosai Lazar Villavarayar. The suit is decreed successively both by the trial Court and the First Appellate Court. The second defendant has preferred the present appeal.

2. The learned counsel for the first respondent/plaintiff in the suit submitted that the first plaintiff has passed away on 12.04.2019 and a memo to that effect has been filed on 01.07.2019.



He also added that the second defendant is only a tenant of the property. The said statement is recorded. Inasmuch as the first plaintiff/decreed holder before the First Appellate Court has passed away and inasmuch as the right sought is one for office, nothing can survive beyond the date of death of the first plaintiff.

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3. Having said that, the appellant has not taken any steps to implead such successor to the office to sustain this appeal. There is no representation for the appellant. Hence, this Second Appeal is dismissed for default. No costs. Consequently, connected M.P(MD). No.1 of 2011 is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

rmk/cm

To

1.The Additional District Judge cum

Fast Track Court No.1, Tuticorin.

2.The Subordinate Judge, Tuticorin.

3.The Section Officer,

VR Section,

Madurai Bench of Madras High Court,

Madurai.

+1 CC to M/s.P.JESSI JEEVA PRIYA, Advocate (SR-24515[F] dated 08/06/2022)

S.A(MD).No.174 of 2011

07.06.2022

SG(CO)

KB(14.06.2022) 2P 6C