



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

S.A.(MD)No.706 of 2010

WEB COPY

C.Ponraj ... Appellant / Appellant / Plaintiff

-Vs-

T.Muthulakshmi ... Respondent / Respondent / Defendant

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the judgment and decree dated 21.04.2010 made in A.S.No.134 of 2006 on the file of the Subordinate Judge, Tuticorin by confirming the judgment and decree dated 06.06.2006 made in O.S.No.159 of 2004 on the file of the Principal District Munsif Court, Tuticorin.

For Appellant : Mr.S.Kadarkarai

For Respondent : Mr.D.Srinivasaraghavan

JUDGMENT

The plaintiff in O.S.No.159 of 2005 on the file of the Principal District Munsif Court, Tuticorin is the appellant in this second appeal.

2. The plaintiff filed the said suit for declaration that the defendant is not his legally wedded wife. The defendant filed written statement controverting the plaint averments. The plaintiff examined himself as P.W.1. Two other witnesses were also examined. P.W.3-Sakthivel, according to the plaintiff, was originally married to the defendant and that their marriage was not dissolved in the manner known to law. The plaintiff marked Ex.A1 to Ex.A5. The defendant examined herself as D.W.1. Three other witnesses were examined on her side. Ex.B1 to Ex.B18 were marked. After considering the evidence on record, the trial court by judgment and decree dated 06.06.2006 dismissed the suit. Questioning the same, the plaintiff filed A.S.No.134 of 2006 before the Sub Court, Tuticorin. The first appellate court by the impugned judgment and decree dated 21.04.2010 confirmed the decision of the trial court and dismissed the appeal. Challenging the same, this second appeal came to be filed. Though the second appeal was filed way back in the year 2010, only notice was ordered and it has not been admitted till date.



3. The learned counsel appearing for the appellant reiterated all the contentions set out in the memorandum of grounds and called upon this Court to frame the substantial question of law and admit the second appeal and take it up 'for disposal' later.

4. The learned counsel appearing for the respondent submitted that the impugned judgment and decree do not call for any interference.

5. I carefully considered the rival contentions and went through the evidence on record.

6. On the last occasion, I posed a question to the learned counsel appearing for the respondent as to why the photographs were not taken if really a wedding had taken place between the parties. In response to the said query, the learned counsel appearing for the respondent produced a bunch of photographs. Those photographs for reasons which are not quite clear were not marked before the trial court. I therefore permitted the learned counsel appearing for the respondent to file a petition Under Order 41 Rule 27 of C.P.C. for adducing additional evidence. The matter was adjourned for the said purpose. However, the learned counsel for the respondent expresses his difficulty stating that he could not contact the respondent.

7. A careful reading of the judgments of the courts below would indicate that the plaintiff suffered a dismissal because the burden cast on him was not properly discharged. No substantial question of law arises for consideration.

8. The second appeal stands dismissed. No cost.

Sd/-

Assistant Registrar (CS-III)

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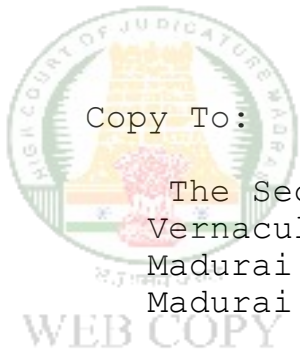
Sub Assistant Registrar (CS)

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To

1.The Subordinate Judge, Tuticorin.

2.The Principal District Munsif Court, Tuticorin.



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The Section Officer,
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+1 CC to M/s.D. SRINIVASARAGAVAN, Advocate (SR-16569[F] dated 05/04/2022)

+1 CC to M/s.S. KADARKARAI, Advocate (SR-16753[F] dated 06/04/2022)

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