



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
CIVIL APPELLATE JURISDICTION**

**FRIDAY, THE EIGHTEENTH DAY OF MARCH TWO THOUSAND AND TWENTY TWO
PRESENT**

THE HON`BLE MR.JUSTICE B.PUGALENDHI

CMP(MD). NO.5139 & 9102 OF 2019

IN

SA.445 OF 2000

1. Jagannathan (Died)
2. V.J.Vasanth (Died)
3. V.J.Naganathan
4. V.J.Srinivasan

... Petitioners 1 to 4/
Appellants 1 to 4

(Petitioners 3 and 4 are residing
at No.2/47B, Perumal Koil Street,
Emaneswaram, Paramakudi - 623 701)

Vs

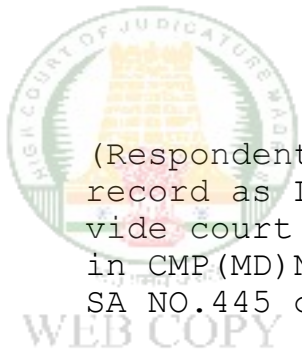
1. Mothilal (Died)
2. Sekar
3. Chandra Bose
4. Kadambavalli
5. Vasantha
6. Janaki

(R3 to R6 are given up as they are
remained Ex-Parte before the court
below, vide court order dated 18.03.2022
made in CMP(MD)Nos.5139 and 9102 of 2019
in SA No.445 of 2000 by BPJ)

7. N.Indhumathi
W/o.Late G.G.Mothilal,
8. G.M.Naganathan
S/o.Late G.G.Mothilal,
9. G.M.rameshbabu
S/o.late G.G.Mothilal,
- 10.S.S.Nagalammal
D/o.Late.G.G.Mothilal,
- 11.G.M.Padmavathi
D/o.Late G.G.Mothilal

... Respondents/Respondents

(Respondents 7 to 11 are residing at,
No.3/88, Eswaran Koil 5th Street,
Emaneswaram - 623 701 Paramakudi Town,
Ramanathapuram District.)



(Respondents 7 to 11 are Brought on record as Lrs of the deceased 1st Respondent vide court order dated 18.03.2022 made in CMP(MD)No.5139 and 9102 of 2019 in SA NO.445 of 2000 by BPJ)

Prayer in CMP(MD).5139 of 2019 :-

Petition filed under O.LXI Rule 19 and LXII Rule 2 of C.P.C, to set aside the order made on 27.03.2019 dismissing the appeal SA No.445 of 2000 and consequently restore the said appeals to files.

Prayer in CMP(MD).9102 of 2019 :-

Petition filed Under XXII Rule 4 C.P.C, to implead and bring on record the persons mentioned hereunder as the legal representatives of the deceased 1st Respondent, as the Respondents 7 to 11 to the appeal and thus render justice.

Prayer in SA.No.445 of 2000:

Appeal filed against the Judgment and Decree dated 14.3.1997 in A.S.No.77/96 on the file of the Principal District Judge, Ramanathapuram confirming the Judgment and Decree dated 19.9.1995 in O.S.No.192/93 on the file of the District Munsif Court, Paramakudi.

ORDER:- This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/s.Anthony Ammal, Advocate for the Petitioners and of Mr. Vidhya Maheswaran, Government Advocate for the Respondents 2 and 7 to 11, this Court made the following order:

The second appeal in S.A.No.445 of 2000 was dismissed for default on 27.03.2019. Therefore, C.M.P.(MD)No.5139 of 2019 has been filed to set aside the order of dismissal dated 27.03.2019 passed in the second appeal. Pending the petition, it was reported that the first respondent died. Therefore, C.M.P.(MD)No.9102 of 2019 has been filed to bring on record the legal heirs of the deceased first respondent as respondents 7 to 11 in the second appeal.

2. Respondent Nos.3 to 6 are yet to be served. The learned counsel for the petitioners submits that even in the second appeal, R3 to R6 are given since they remained ex parte in the lower Court. He has also made an endorsement to that effect.

3. Mr.Vidhya Maheswaran, learned counsel appearing for R2, is also representing for R7 to R11 and raised certain objection that the appellants, on earlier occasions, failed to appear before this Court, in order to evade the second appeal.



4. Though the learned counsel for R7 to R11 raised certain objection, this Court is satisfied with the reasons stated in the affidavit filed in support of these petitions, these petitions are allowed and the second appeal is restored to file.

5. The Registry is directed to carry out the necessary amendment in the cause title and post the second appeal for final disposal on 24.03.2022.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

To

1) The Principal District Judge,
Ramanathapuram.

2) The District Munsif,
Paramakudi.

Copy to:

1) The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court, Madurai.

2) The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

ORDER DATED : 18/03/2022

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ORDER

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CMP(MD). No.5139 & 9102 of 2019
in
S.A. No.445 of 2000

Giving direction and etc.
as stated within.

SVS (CO)

GC (23.03.2022) 3P 5C

<https://hcservices.ecourts.gov.in/hcservices/>