



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

S.A(MD)No.265 of 2019

and

CMP (MD) No.5127 of 2019

D.Natarajan ... 1st Defendant/Appellant/Appellant

-vs-

1.Leelavathi ... Plaintiff/1st Repondent/1st Respondent

2.D.Rajendran ... 2nd Defendant/2nd Respondent/
2nd Respondent

Prayer :- The second Appeal filed under Section 100 of the Code of Civil Procedure, to reverse and set aside the judgment and decree in A.S.No.41 of 2013 dated 19.01.2015 passed by the V Additional District judge, Madurai and in confirming the judgment and decree of the Principal Subordinate Judge, Madurai made in O.S.No.1235 of 2010 dated 19.08.2013 and allow the present second appeal.

For Appellant : No appearance

For Respondents : Ms.Meenakarpagarajam

JUDGMENT

When the matter came up for hearing on 19.04.2022, the learned counsel for the appellant submitted that the appellant was ready and willing to pay a sum of Rs.6,50,000/- towards full and final settlement. However, the learned counsel for the appellant sought further time to get appropriate instructions from his clients. Hence, the matter was adjourned to 21.04.2022. On that date, the learned counsel for the respondents reported that his client is ready and willing to receive a sum of Rs.7,00,000/ towards full and final settlement of the entire suit claim. Since none appeared on behalf of appellant, the matter was adjourned to 22.04.2022 under the caption 'for dismissal'. When the matter came up for hearing on 22.04.2022 also, there was no representation for the appellant. Hence, the matter was directed to be listed on 26.04.2022 under the same caption.



2.Today, when the matter is taken up for hearing, none appeared on behalf of the appellant. Therefore, the second appeal is dismissed for non prosecution. It is made clear that, in the event, if any application is filed in future for restoration of the Second Appeal, the same will be entertained only, the appellant is depositing a sum of Rs.6,50,000/- as agreed to pay towards full and final settlement.

3.This Court is very clear that a dilatory tactics has been followed by the appellant, having made a statement that his client is ready and willing to pay a sum of Rs.6,50,000/- and thereafter, none appeared for the appellant. It shows that he wanted the matter to go for a dismissal and to file a subsequent application for restoration. Therefore, the appellant's attitude looks like taking leniency to proceed the matter before this Court.

4.Therefore, the second appeal is dismissed for non prosecution. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

cp

To

1.The V Additional District judge,
Madurai.

2.The Principal Subordinate Judge,
Madurai.

Copy to:

The Sub Assistant Registrar,Main(A.E) Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.MEENA KARPAGA RAJAM, Advocate
(SR-22199[F] dated 28/04/2022)

S.A(MD)No.265 of 2019

and

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MGJ(25.05.2022) 2P 5C