



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Thursday, the Twenty Second day of December Two Thousand and Twenty
Two

WEB COPY

PRESENT

The Hon`ble Mr.Justice S.SOUNTHAR

CMP(MD) . No.10352 of 2022
in
SA NO.825 of 1996

K. Shanmugam

... Petitioner/Appellant

Vs

1 K. Sigamani
2 M. Marimuthu
3 S. Vannaththal

... Respondent/Respondent

Prayer in CMP(MD)10352 of 2022:-

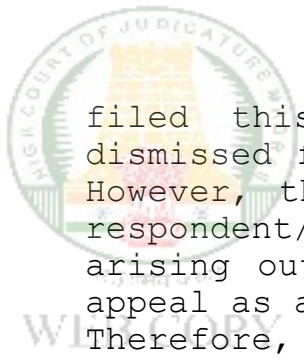
This Civil Miscellaneous Petition filed under order 41 Rule 19 of C.P.C., to restore the appeal in S.A. No. 825 of 1996 dismissed for default on 22.04.2009 in the above light and thus render justice.

Prayer in SA NO.825 of 1996:-

This Second Appeal filed under section 100 of C.P.C., against the judgment and decree in AS No.76 of 1994 on the file of the District Judge, Pudukkotttai, dated 04.03.1996 confirming judgment and decree made in OS No.58 of 1990 dated 16/11/1992 on the file of Sub Court, Pudukkottai.

ORDER:- This Civil Miscellaneous 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 Thiru.N.Balakrishnan, Advocate for the Petitioner and no appearance either in person or by an Advocate, this Court made the following order:

It is seen from the records that S.A.No.825 of 1996 was dismissed as against the 1st respondent as early as on 23.06.2008. Subsequently, when the second appeal was posted for hearing on 22.04.2009, there was no representation for the appellants and consequently, the second appeal was dismissed for default as against the remaining respondents viz., respondents 2 and 3. Now the petitioner/appellant



filed this petition to restore the second appeal, which is dismissed for default on 22.04.2009 as against respondents 2 and 3. However, the order dismissing the second appeal as against the 1st respondent/plaintiff has attained finality. The second appeal is arising out of a suit for partition. The dismissal of the second appeal as against the 1st respondent/plaintiff has attained finality. Therefore, no purpose will be served by restoring the second appeal as against respondents 2 and 3. Therefore, C.M.P.(MD) No.10352 of 2022 is dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/01/2023

Sub Assistant Registrar(CS)

ABR

TO

- 1.The District Judge, Pudukkotttai,
2. The Sub Judge, Pudukkottai

Copy to:

The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court, Madurai

ORDER DATED : 22/12/2022

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ORDER

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CMP(MD). No.10352 of 2022
in

SA No.825 of 1996

Giving direction and etc.
as stated within.

AMS(05.01.2023) 2P 5C