



WEB COPY



S.A.No.290 of 2004

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.10.2023

CORAM :

THE HONOURABLE Mr. JUSTICE **C.KUMARAPPAN**

S.A.No.290 of 2004

Nagappan

.. Appellant

Vs.

- 1.Kaliappan (deceased),
- 2.Ramasamy,
- 3.Peramayee,
- 4.Muthayammal,
- 5.Vellai Gounder,
- 6.Kaliyappan,
- 7.Parvathi,
- 8.Kamalammal,
- 9.Murugesan,
- 10.Ravichandran,
- 11.Vanaja,
- 12.Pappal,
- 13.Aarayee,
- 14.Guruvayee,
- 15.Kuppayee,
- 16.Gurusamy,
- 17.Mathaiyan,
- 18.Pappathy,
- 19.Lakshmi,
- 20.Palaniammal,
- 21.Radhamani

.. Respondents

(RR15 to RR21 brought on record as LR's of the deceased R1 vide order of this Court, dated 13.02.2012 made in C.M.P.No.4896 of 2004)
(R4, R6, R7 to R10 – Dismissed vide order dated 12.12.2022)



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PRAYER : Second Appeal has been filed under section 100 of Civil Procedure Code to set aside the Judgment and decree dated 29.08.2002 made in A.S.No.34 of 2002 on the file of the Addl. District Judge, Fast Track Court No.IV, Erode at Bhavani confirming the judgment and decree dated 29.09.2000 made in O.S.No.83 of 1983 on the file of the Principal District Munsif Court of Bhavani, Erode.

For Appellant : Mr.V.Balamurugan

For Respondents :

For R2, 3, 11 to 14: No appearance

For R5 : Mr.T.Elumalai
for M/s.K.Anitha.

For R15 & 16 : M/s.R.Raji
for M/s.S.Saravanakumar.

For R17 to 21 : No appearance

JUDGMENT

The Second Appeal has been filed to set aside the Judgment and decree dated 29.08.2002 made in A.S.No.34 of 2002 on the file of the Addl. District Judge, Fast Track Court No.IV, Erode at Bhavani confirming the judgment and decree dated 29.09.2000 made in O.S.No.83 of 1983 on the file of the Principal District Munsif Court of Bhavani, Erode.



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2.The said appeal was listed on 05.10.2023, where the appellant was directed to move an application to implead the legal heirs of the sole appellant. Since no steps were taken, on 11.10.2023 conditional order was passed to move an application to implead legal heirs of the sole appellant on or before 18.10.2023. However, they are not in a position to file an application to implead legal heirs of the appellant.

3. The learned counsel for the 5th respondent would submit that the suit which was filed for declaration, was even in their favour. Therefore, though the appellant has not taken any steps to implead legal heirs, he wants to file an application to transpose themselves as the appellant. However, on perusal of the Trial Court records, 5th respondent herein who was arrayed as the 7th defendant in the suit has not appeared before the Trial Court and was set *ex-parte*. Therefore, his submission could not be considered.

4.In the result, the Second Appeal is dismissed as abated. There shall be no order as to costs.

17.10.2023

Internet : Yes/No
Index: Yes/No
apd/dpa



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C.KUMARAPPAN,J.

apd/dpa

To

1. Addl. District Judge, Fast Track Court No.IV,
Erode at Bhavani,
2. Principal District Munsif Court of Bhavani,
Erode,
3. The Section Officer, V.R.Section, High Court, Madras.

S.A.No.290 of 2004

18.10.2023