



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Tuesday, the Fourth day of July Two Thousand and Twenty Three

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PRESENT

The Hon`ble Mr.Justice P.VELMURUGAN

CMP(MD) . No.3415 of 2023

in

SA(MD)No.80 OF 2016

1.M. Palanisamy

2.P.Tamilarasi

... Petitioners/Appellants

Vs

K. Rajam

... Respondent/Respondent

Prayer in CMP(MD) . No.3415 of 2023

CivilMiscellaneous Petition filed under 41 Rule 19 of the C.P.C. To SET-ASIDE the order dated 09.02.2023 in S.A.(MD). No. 80/2016 on the file of this Honourable Court and restore the same and pass such further orders or other orders as this Honourable Court may deem fit and proper in the nature and circumstances of the case and thus render justice.

Prayer in SA(MD) . No.80 of 2016

This Second Appeal is filed under Section 100 of the Code of Civil Procedure, 1908 against the Judgment and Decree of the Court of the Principal Subordinate Judge, Thanjavur dated 14.06.2013 passed in A.S.No.53 of 2012 confirming the Judgment and Decree of the Court of the District Munsif,Thanjavur dated 12.08.2011 passed in O.S. No.326 of 2008

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 Mr.R.Suresh Kumar , Advocate for the Petitioner, this Court made the following order:

This application is filed to set aside the order of dismissal dated 09.02.2023 and to restore the appeal.

2. The second appeal was pending from 2016. When the second appeal was taken up for hearing on 08.02.2023, there was no representation for the appellants, therefore, this Court directed the registry to list the matter on 09.02.2023 under the caption 'for



dismissal'. On that day also there was no representation by the appellants. Therefore, the appeal was dismissed for default. Thereafter, immediately, the learned counsel for the appellants filed the restoration petition, which means the appellants watching the proceedings and purposefully avoided to prosecute the appeal. Though the reasons stated in the accompanying affidavit are not satisfied, however, in order to give an opportunity to the parties to prosecute the appeal, this petition is ordered on condition that the petitioners shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) towards costs before the Registry to the credit of C.M.P(MD)No.3415 of 2023, within 10 days, provided, on or before 14.07.2023 and on deposit of the same, the petition shall stand allowed, failing which, the Petition shall stand automatically dismissed without further reference to this Court.

3.List the matter on 17.07.2023 for filing compliance report.

Sd/-

Assistant Registrar()

// True Copy //

/07/2023

Sub Assistant Registrar(CS)

TO

1.The Subordinate Judge,
Thanjavur.

2.The District Munsif,
Thanjavur.

Copy to:

1.The Registrar (Judicial)
Madurai Bench of Madras High Court,
Madurai.

2.The Sub- Assistant
A.E Section,
Madurai Bench of Madras High Court,

3. The Section Officer,
Accounts Section,
Madurai Bench of Madras High Court, Madurai

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

<https://www.mca.gov.in/sd> the matter on 17.07.2023 for filing compliance report)



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CMP(MD).



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ORDER DATED : 04/07/2023

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Restore

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CMP(MD) . No.3415 of 2023

in

SA (MD)No.80 of 2016

Giving direction and etc.
as stated within.

KB(10.07.2023) 3P 7C