



S.A.(MD).No.59 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.06.2023

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

S.A.(MD).No.59 of 2021

1.Shanmugakani

2.Ramesh

3.Maheswari

...Appellants/Appellants/Plaintiffs

Vs.

1.The District Superintendent of Police,
Tuticorin,
Tuticorin District.

2.The Tahsildar,
Taluk Office,
Tuticorin.

3.Muthu Ravi

4.Raja

5.Muthammal

...Respondents/Respondents/Defendants

Prayer: Second Appeal is filed under Section 100 of CPC to set aside the judgment and decree passed in A.S.No.77 of 2013 dated 03.01.2019 on the file



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of the Sub Court, Tuticorin, modifying the judgment and decree passed in O.S.No.364 of 2010 dated 02.08.2013 on the file of the Principal District Munsif Court, Tuticorin.

For Appellants : Mr.Murugan
for Mr.H.Arumugam
For R-1 and R-2 : Mrs.S.Jeyapriya
Government Advocate
For R-3 : No appearance
For R-4 : Mr.R.Jegadeeswaran
For R-5 : Mr.K.Palmurugan

JUDGMENT

The learned counsel for the appellants has been repeatedly seeking adjournments in the matter. As seen from the earlier proceedings, the matter was listed before me on 06.04.2023, 13.04.2023 and 08.06.2023. On all the three hearing dates, the learned counsel for the appellants sought for an adjournment, whereas, the learned counsel for the respondents was always ready. In fact, the learned counsel for the fifth respondent has already filed his written submissions.



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2. The dispute involves a declaratory relief as to who is the legally wedded wife of the deceased Logu. The respondents 3 to 5 have succeeded before the Lower Appellate Court and they have been declared as legal representatives of the deceased Logu along with the appellants 2 and 3. The first appellant, who claims to be the wife of the deceased Logu, has been excluded as a legal representative of the deceased Logu on the ground that she has not proved through her oral and documentary evidence that she was the legally wedded wife of Logu. Admittedly, no documentary evidence was produced by the appellants/plaintiffs in the suit to prove that the first appellant was the legally wedded wife of the deceased Logu.

3. The learned counsels for the respondents 4 and 5 submit that in view of the pendency of the Second Appeal, the Government office in which the deceased Logu was working are not paying the terminal benefits payable to the legal heirs of the deceased Logu.

4. This Second Appeal is of the year 2021. Only on the repeated requests made by the learned counsel for the appellants for an adjournment, repeated adjournments were granted by this Court. Since the respondents are expressing



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a difficulty in getting the terminal benefits and the learned counsel for the appellants is also not ready to argue the matter, this Second Appeal will have to be dismissed for non-prosecution as it can be inferred that the appellants are not interested in prosecuting this Second Appeal. Accordingly, this Second Appeal is dismissed for non-prosecution. There shall be no order as to costs.

22.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Lm

To

- 1.The Sub Court,
Tuticorin.
- 2.The Principal District Munsif Court,
Tuticorin.
- 3.The District Superintendent of Police,
Tuticorin,
Tuticorin District.
- 4.The Tahsildar,
Taluk Office,
Tuticorin
- 5.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

4/5



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ABDUL QUDDHOSE, J.

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