



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Wednesday, the Twenty First day of June Two Thousand and Twenty
Three
PRESENT

The Hon`ble Mr.Justice P.VELMURUGAN

CMP(MD) No.11499 of 2016

IN

SA(MD) No.887 of 2011

1 P.MALARSUDUM PERUMAL
2 P.ANBALAGAN,
3 P.SELVAPERUMAL

... PETITIONERS/RESPONDENTS

Vs

R.SENTHILKUMAR

... RESPONDENT/APELLANT

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to re-hear the above S.A.No.887 of 2011 which was disposed of on 01.04.2015.

Prayer in SA(MD). 887/ 2011 :

To set aside the Judgment and Decree passed in OS.No.188/2005 passed by the Additional District Munsif Court, Eranial dated 19/01/2010 which was confirmed by the Subordinate Judge, Padmanabhapuram in AS.No.36/2010 dated 27/08/2010.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.M.P.SENTHIL, Advocate for the petitioners and none appeared either in person or by an advocate on behalf of the Respondent, the court made the following order:-

This application is filed to re-hear the above second appeal which was disposed of on 01.04.2015.

2.Learned counsel appearing for the petitioner would submit that the judgment and decree passed on 01.04.2015 is an ex-parte judgment. Order 41 Rule 21 of CPC states that where an appeal is heard ex-parte and judgment is pronounced against the respondent, he may apply to the appellate Court to re-hear the appeal. But in this case, judgment was pronounced after hearing the both sides, therefore, invoking Order 41 Rule 21 is not applicable. Unless the appeal is re-opened, no question of re-hearing is arise. Therefore, this application is not maintainable and hence, it is dismissed.

sd/-

21/06/2023

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/06/2023

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



CMP(MD) A



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TO

1 THE ADDITIONAL DISTRICT MUNSIF, ERANIAL.

2 THE SUBORDINATE JUDGE, PADMANABHAPURAM.

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ORDER

IN

CMP (MD) No.11499 of 2016

IN

SA(MD) No.887 of 2011

Date :21/06/2023

RS/SSS/SAR-(30.06.2023) 2P 3C