



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

Tuesday, the Third day of January, Two Thousand and Twenty Three

PRESENT

The Hon'ble Mrs. Justice N.MALA

CMP(MD) . No.13 of 2023
in
A.S(MD) No.87 of 2017

Karuppana Gounder (Died)

1. Papayeeammal
2. K.Subramani ... Petitioners/Appellants

Vs

1. Pappathi
2. Kulandairasu ... Respondents/Respondents

Prayer :-

Civil Miscellaneous Petition filed under Order 41 Rule 19 of C.P.C., praying this Honourable Court to set aside the order passed in A.S.No. 87 of 2017 dated 15-06-2022 dismissed for non-prosecutio by this Honourable Court and restore the same.

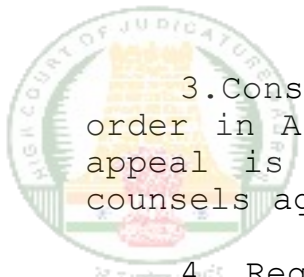
Prayer in A.S(MD) No.87 of 2017:

Appeal Suit filed under Section 96 of Civil Procedure Code, to call for the Judgment and Decree dated 07.04.2014 on the file of the learned Principal District Judge, Karur made in O.S. No.51 of 2005 and modify the Judgment and Decree in so far as the items 2 to 10 are concerned and allow this First Appeal.

ORDER:- This Civil Miscellaneous Petition coming upon for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.I.Velpradeep, Advocate for the Petitioners and of Mr.E.K.Kumaresan, Advocate for the Respondents herein, this Court made the following order:

This petition is filed to set aside the order passed in A.S.No.87 of 2017, dated 15.06.2022 dismissing the appeal for non-prosecution and to restore the same.

2.The learned counsel for the petitioners submits that I.A. for final decree proceedings is already filed and the Commissioner has also filed a report in the final decree proceedings. He further submits that if the appeal is not restored on file, the final decree will be passed which will greatly prejudice the appellant in the appeal.



3. Considering the submission made by the learned counsel for the respondent, the order in A.S.No.87 of 2017, dated 15.06.2022, is set aside and the appeal is restored. This Petition is accordingly ordered. Both counsels agree for final hearing on 02.02.2023.

4. Registry is directed to restore the appeal on file and list the matter on 02.02.2023.

Sd/-

Assistant Registrar ()

// True Copy //

05/01/2023

Sub Assistant Registrar(CS)

TO

The Principal District Judge,
Karur.

Copy to:

1. The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court,
Madurai.
2. The Record Keeper,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

ORDER DATED : 03/01/2023

HEARING DATE : 02/02/2023

=====

ORDER

=====

CMP(MD) . No.13 of 2023

IN

AS(MD) No.87 of 2017

Giving direction and etc.
as stated within.

MGJ(05.01.2023) 2P 5C