



S.A.No.2087 of 2002

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 02.08.2023

CORAM

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

S.A.No.2087 of 2002

Masilamani

... Appellant

-VS-

1.Thangadurai
2.Ayuthapandian @ Kulasekara Nadar
3.Rathinasamy Nadar

Arunachala Nadar (died)

4.Seemathi Ammal
5.Pappaiah
6.Chellamal
7.Ambika
8.Glory

9.Sakunthala Arunachalam
10.Bharathy Ganesan
11.Akalya Murugesan

... Respondents

PRAYER: Second Appeal filed under Section 100 Code of Civil Procedure against the Judgment and Decree dated 07.09.2001 made in A.S.No.26 of 2001 on the file of the Principal Sub Judge, Tenkasi confirming the Judgment and Decree dated 30.03.2001 made in O.S.No. 12 of 1996 on the file of the Additional District Munsif, Tenkasi.



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For Appellants ... Mr.P.Thiayarajan
For Respondents ... No appearance

JUDGMENT

The appellant, as the plaintiff, has filed the suit in O.S.No.12 of 1996 on the file of the Additional District Munsif, Tenkasi, seeking declaration and permanent injunction against the respondents/defendants. After full-fledged trial, the trial Court dismissed the suit. Challenging the said Judgment and Decree, the appellant/plaintiff filed the appeal in A.S.No.26 of 2001 on the file of the Principal Sub Judge, Tenkasi. After hearing, the first appellate Court dismissed the appeal and confirmed the Judgment and Decree passed by the trial Court. Aggrieved over the same, the appellant/plaintiff filed the present second appeal before this Court.

2. Today, when the matter is taken up for hearing, the learned counsel appearing for the appellants would submit that the respondents 1, 3, 4 and 6, namely, Thangadurai, Rathinasamy Nadar, Seemathi Ammal and Chellammal reported dead. However, the appellant expressed his inability to collect the details of the date of death and their legal representatives of the deceased respondents by his letter, dated 31.07.2023. The learned counsel filed a memo to that effect. He would



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further submit that without impleading the legal heirs of the deceased respondents 1, 3, 4 and 6, it is very difficult to conduct the case as against the respondents 2, 5, 7 to 11. Hence, the learned counsel prays to pass suitable order in this second appeal.

3. Recording the above said submission and the memo dated 01.08.2023, since no steps have been taken in respect of the deceased respondents 1, 3, 4 and 6, who are the necessary parties, this Second Appeal is dismissed as abated in respect of the respondents 1, 3, 4 and 6 and the Second Appeal is dismissed for default in respect of the respondents 2, 5, 7 to 11. No costs.

02.08.2023

NCC : Yes/No

Index : Yes/No

Internet: Yes

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To:

1.The Principal Sub Judge, Tenkasi.

2.The Additional District Munsif, Tenkasi.

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



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KRISHNAN RAMASAMY, J.

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