



S.A.No.1742 of 2003

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.1742 of 2003

- 1.The State of Tamil Nadu rep.
by the District Collector,
Kanyakumari District.
- 2.The Tahsildar,
Vilavancode Taluk,
Kuzhithurai.
- 3.The Revenue Divisional Officer,
Pakode Village, Vilavancode Taluk,
Kanniyakumari District.

... Appellants

-VS-

- 1.Thangayyan
- 2.Chellan
- 3.Kesavan Nadar
- 4.Administrative Officer
Pacade Town Panchayat.

... Respondents

PRAYER: Second Appeal filed under Section 100 Code of Civil Procedure against the Judgment and Decree dated 23.06.1994 made in A.S.No.27 of 1993 on the file of the Sub Judge, Kuzhithurai reversing the Judgment and Decree dated 22.04.1993 made in O.S.No.282 of 1984 on the file of the Additional District Munsif, Kuzhithurai.



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For Appellants ... Mr.A.Baskaran
Addl. Govt. Pleader

For Respondents ... Mr.P.Thiayarajan for R1

JUDGMENT

The first respondent/plaintiff has filed the suit in O.S.No.282 of 1984, on the file of the Additional District Munsif, Kuzhithurai for damages and for injunction against the appellants and the respondents 2 to 4 herein. The trial Court, after trial, dismissed the suit. Challenging the said Judgment and Decree passed by the trial Court, the first respondent/plaintiff has filed the appeal in A.S.No.27 of 1993, on the file of the Sub-Court, Kuzhithurai. The first appellate Court, after hearing the appeal, allowed the appeal and decreed the suit. Challenging the Judgment and Decree passed by the first appellate Court, the appellants/defendants 1 to 3 have filed the present second appeal before this Court.

2.When the matter is taken up for hearing today, the learned counsel for the first respondent/plaintiff would submit that the first respondent/plaintiff passed away as early as on 18.11.2018. He has also filed a memo to that effect.



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3. In this case, the first respondent/plaintiff alone is the necessary party. Insofar as the respondents 2 and 3, this second appeal has already been dismissed for default on 02.03.2022. The fourth respondent is the formal party. Hence, without impleading the legal heirs of the deceased first respondent/plaintiff, no order can be passed. Therefore, since no steps have been taken by the appellants in respect of the first respondent/plaintiff, this Second Appeal is dismissed as abated. No costs.

02.08.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes
skn

To:

- 1.The Sub Judge, Kuzhithurai.
- 2.The Additional District Munsif, Kuzhithurai.
- 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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