



S.A.No.457 of 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2024

CORAM

THE HONOURABLE Mr. JUSTICE G.ARUL MURUGAN

S.A.No.457 of 2006
and
C.M.P.No.5701 of 2006

1.P.Ponnusami Gounder
2.P.Kumarasami @ P.Mani
3.P.Ganesamurthi

... Appellants

vs.

1.R.Chinnappa Nadar (died)
2.R.Selva Nadar (died)
3.Kanniammal @ Pappammal
4.Kamalam (died)
5.Chinnammal
6.M.Srinivasan
7.K.Ganeswamurthi
8.Nachammal
9.Kanniammal
10.Jayamani
11.Vijayalakshmi
12.T.S.Rangaswami
13.Manimekalai
14.Shanthi
15.Gandhimathi
16.Suseela
17.P.Devanthiran
18.T.Karthikeyan
19.M.Soundararajan
...Respondents



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WEB COPY (R6 & R7 were impleaded as parties/respondents vide Court order dated 13.07.2021 in C.M.P.No.1433 of 2008)

(R8 to R12 were brought on record as LR's of the deceased R1, vide Court order dated 13.07.2021 in C.M.P.Nos.342 to 344 of 2013)

(R13 and R14 were brought on record as LR's of the deceased R2, vide Court order dated 13.07.2021 in C.M.P.Nos.10365, 10369 & 10372 of 2021)

(R15 and R16 were brought on record as LR's of the deceased R4 vide Court order dated 13.07.2021 in C.M.P.Nos.10353, 10361 & 10371 of 2021)

(R17 to R19 were impleaded as parties/respondents vide Court order dated 13.07.2021 in C.M.P.No.5525 of 2016)

Prayer:- Second Appeal filed under Section 100 of the Civil Procedure Code against the judgment and decree dated 03.11.2004 in A.S.No.53 of 2004 passed by the learned Principal District Judge, Erode, reversing the judgment and decree dated 20.06.2002 in O.S.No.437 of 1996 passed by the learned District Munsif-cum-Judicial Magistrate, Perunthurai.

For appellants	: Mr.T.M.Hariharan
For R1 to R4	: Died
For R5	: No appearance
For R6	: No such addressee
For R1, R12, R13 & R15 to R19	: No appearance
For R8 to R11 & R14	: Address cannot be located



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WEB COPY

J U D G M E N T

The defendants in the suit, are the appellants before this Court. The suit filed for redemption, dismissed by the Trial Court. However, the Appeal was allowed by the Lower Appellate Court and thereby, the suit was decreed. Against which, the present Second Appeal has been preferred.

2. In this Second Appeal, the respondents 1, 2 and 4 died and this Court, by order dated 13.07.2021, impleaded the legal heirs of the deceased respondents 1, 2 and 4 as the respondents 8 to 16 and impleaded the respondents 6 & 7 and 17 to 19 as subsequent purchasers. In this Second Appeal, this Court, by order dated 21.12.2022, issued fresh notice to the newly impleaded respondents 6 to 19. Thereafter, the case was adjourned on 23.01.2023, 08.11.2023, 23.11.2023 and 29.11.2023. Again, when the matter was listed on 12.12.2023, this Court recorded that only the respondents 5, 7, 12, 15 to 19 have been served and the respondents 6, 8 to 10, 11 and 14 have not been served and also the respondent 3 in this Second Appeal died as early as 27.10.2014. This



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Court, by order dated 12.12.2023, has recorded that since the appellants already moved an application for substituted service, time was granted to re-present the same and also the appellants were directed to take steps to substitute the legal heirs of the deceased 3rd respondent. Thereafter, the case has been listed before this Court on 09.01.2024, 24.01.2024 and 09.02.2024.

3. Even, when the matter is listed today, the appellants have not taken any steps to substitute the legal heirs of the deceased 3rd respondent, who died on 27.10.2014 itself and the application for substituted service has not been numbered, in so far as the unserved respondents 6, 8 to 10, 11 and 14, who were impleaded as respondents.

4. In the suit for redemption, when the appeal against the 3rd respondent has abated in the year 2014 itself, the decree has become final and no different orders can be passed against other respondents. In spite of providing adequate opportunities, the appellants have not taken any effective steps to complete the service and substitute the legal heirs of the deceased 3rd respondent. It is evident that the appellants are not interested



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in prosecuting this Second Appeal. Hence, there is no purpose in keeping this Second Appeal pending.

5. In the result, this Second Appeal is dismissed as abated. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

05.03.2024.

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
apd

To

1. The Principal District Judge, Erode.
2. The District Munsif-cum-Judicial Magistrate, Perunthurai.
3. The Section Officer, V.R.Section, High Court, Madras.



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G.ARUL MURUGAN,J

apd

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