



WEB COPY



S.A.No.78 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **23.09.2024**

CORAM

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

S.A.No.78 of 2020

1. Mallan

2. Arumugam

3. Palani

... Appellants

Vs

Rajammal

... Respondent

Prayer: Second Appeal filed under Section 100 of Civil Procedure Code, 1908, praying to set aside the Decree and Judgement dated 13.02.2019 passed in A.S.No.93 of 2017 on the file of the I Additional Subordinate Judge, Salem Confirming the Decree and Judgement dated 31.08.2017 passed in O.S. No.889 of 2013 by the Principal District Munsif Court at Salem by allowing this Second Appeal.

For Appellants : Mr.A.Prithviraj for
Mr.R.Nalliyappan

For Respondent : Mr.V.Sekar



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JUDGMENT

Mr.A.Prithviraj representing Mr.R.Nalliyappan, counsel on record for the appellants and Mr.V.Sekar, counsel for the respondent are before this Court.

2. The representing counsel for the appellants would submit that the counsel for the appellants on record is not ready to argue the matter today.

3. This Court has perused the case file. The Second Appeal was admitted on 30.01.2020 on the following substantial question of law :

Whether the Court below is correct in holding that Ex.A3 is suspicious especially when the plaintiff has sufficiently proved execution of Ex.A3 as required under Section 68 of the Indian Evidence Act by examining of the attesting witnesses?

4. The Second Appeal was thereafter listed on 12.08.2024. On 12.08.2024, the learned counsel for the appellants sought time to argue the matter, hence the Registry was directed to list the matter on 21.08.2024. On



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21.08.2024, when the matter came up for hearing, again the learned counsel for the appellants sought time to argue the matter. Hence, with a view to give one more opportunity to the appellant, the Second Appeal was adjourned to 22.08.2024. Thereafter, the matter was listed on 12.09.2024 for hearing arguments of the appellants. However, the learned counsel for the appellant was not ready to argue the matter on that day. When the matter is taken up for hearing today, Mr.A.Prithviraj, representing counsel for Mr.R.Nalliyappan, seeks time to argue the matter.

5. As narrated above, the conduct of the appellants shows that the appellants are not willing to proceed with the appeal. Hence, there is no other option except to dismiss this appeal for default and accordingly, this Second Appeal is dismissed for default with costs.

23.09.2024

Speaking order/Non-speaking order
Index: Yes/No
shk

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R.SAKTHIVEL, J.

shk

To

1. The Principal District Munsif Judge,
Salem.
2. The I Additional Subordinate Judge,
Salem.
3. The Section Officer,
V.R.Section, High Court, Madras.

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