



A.S.No.387 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.11.2024

CORAM

HONOURABLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Appeal Suit No.387 of 2023

and

CMP.No.13580 of 2023

Sengamalai : Appellant/1st Respondent

Vs.

Mariyayee (died)

1. Raja

2. Madheswari : Respondents 1 & 2/Petitioners

Vaiyapuri (died)

Marimuthu (died)

3. Perumal

4. Aasara Kannu

5. Dhanam

6. Malar

7. Kala



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8. Kanimozhi @ Elavarasi

: Respondents 3 to 8/Respondents 2 to

9

Prayer: This First Appeal has been filed under Section 96 of Civil Procedure Code, to set aside the Judgment and Final Decree dated 26.10.2022 passed in I.A.No.1 of 2021 in O.S.No.512 of 2004 on the file of the learned Additional District Munsif, Attur.

For Appellant : Ms.K.Aswini Devi

For Respondents : Ms.R.Yuvarani
for Ms. R. Poornima for R-1
: Notice Returned – R-2 to R-8

JUDGMENT

The present Appeal is filed as against the judgment and decree passed by the learned Additional District Munsif, Attur. The present Appeal ought to have been filed before the Appellate Court but it was erroneously filed before this Court. The Registry also without going through the fact that the order which is impugned in this Appeal has been passed by the District Munsif Court has erroneously numbered this Appeal. Subsequently, even when the Appeal is taken up for hearing this Court had granted interim stay. Now it is noticed by this Court that the Appellant has bye-passed the procedure and filed the



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present Appeal before this Court and it is not maintainable before this Court.

Therefore, the Registry is directed to transmit the entire case records in relation to this Appeal to the Court of Appeals concerned. The learned Counsel for the Appellant is also directed to present the present Appeal before the Court of Appeal concerned for getting appropriate orders. The Appellate Court is directed to entertain the Appeal as and when it is re-presented by the learned Counsel for the Appellant without taking note of the delay in filing the Appeal.

2. While calculating the delay in filing the Appeal it is to be considered as the matter was pending before the High Court. Therefore, it should be considered favourably to the Appellant.

In the result, this *Appeal Suit is struck off from the Registry.*

Consequently, connected Miscellaneous Petition is closed. No costs.

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Index : Yes / No

Internet : Yes / No

Speaking Order / Non-Speaking Order

Neutral Citation : Yes / No



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To

1. The Additional District Munsif,
Attur.
2. The Section Officer,
V.R.Section,
High Court, Madras.



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SATHI KUMAR SUKUMARA KURUP, J.

dh/SRM

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