



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.04.2024**

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A(MD)NO.887 OF 2007

V.Lillian(died) :Plaintiff/Respondent/Appellant

.vs.

1.L.Austin

2.A.Kimal :Defendants/Appellants/Respondents

(Sole Appellant in S.A(MD)No.887 of 2007 deceased. Memo recorded as per order of this Court made in Memo in U.S.R.No. 1029 of 2012, dated 12.3.2012 in S.A(MD)No.294/08)

PRAYER: Second Appeal filed under Section 100 of Civil Procedure Code against the judgment and decree made in A.S.No.97 of 2005, dated 8.9.2006, on the file of Sub-Court, Padmanabhapuram reversing the judgment and decree made in O.S.No.23 of 2001, dated 25.1.2005, on the file of Additional District Munsif Court, Eraniel.

For Appellant :Mr.V.Jeyapragash

For Respondents :Mr.K.Vamanan
1 and 2

JUDGMENT

The plaintiff in the suit is the appellant. He filed a suit for declaration of title and recovery of possession. The first



respondent/first defendant is the son of the appellant/plaintiff. The second respondent is the son of the first respondent. Even though one of the legal representative of the appellant is arrayed as opposite party in the Second Appeal, the right to sue available for the appellant/plaintiff will not survive to the first respondent, who is the son of the deceased sole appellant as he is contesting the case on independent right. Though the death of the sole appellant was recorded as early as on 15.03.2012, till date, no steps have been taken to bring on record the legal representatives of the deceased sole appellant, if any.

2.In such circumstances,the Second Appeal is dismissed as abated. No costs.

25.04.2024

Index:Yes/No

Internet:Yes/No

NCC:Yes/No

vsn

To

1.The Sib-Judge,
Padmanabhapuram.

2.The Additional District Munsif,
Eraniel.



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3. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

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S.SOUNTHAR, J.

vsn

JUDGMENT MADE IN
S.A(MD)No.887 of 2007

25.04.2024