



WEB COPY



SA(MD)No.436 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 01/08/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGO VAN**

SA (MD) No.436 of 2023

and

CMP (MD) No.10266 of 2023

and

CMP (MD) Nos.2858 and 3104 of 2024

Tmt.Sakunthala : Appellant/Appellant/
Plaintiff

Vs.

Karuppathal (Died)

1.Ramakrishnan

2.Muthukumar

3.Anandha Navagi

: Respondents 1 to 3/
Respondents 1 to 3/
Defendants 1 to 3

4.Ramanathan

: 4th Respondent/
4th Respondent/
Not a party

PRAYER: Second Appeal is filed under Section 100 of the Civil Procedure Code, against the judgment and decree, dated 05/08/2022 passed in AS No.84 of 2018 by the Additional Sub Court, Palani, Dindigul District, confirming the judgment and decree, dated 05/03/2018 passed in OS No.249 of 2013 by the District Munsif Court, Palani, Dindigul District.

For Appellant : Mr.V.R.Venkatesan

For 1st Respondent : Mr.S.Subbiah
Senior Counsel
for Mr.G.Aravinthan

For 2nd Respondent : Mr.M.R.Seenivasan

For 3rd Respondent : Mr.M.Karuppasamy

For 4th Respondent : No appearance



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JUDGMENT

This second appeal is filed against the judgment and decree, dated 05/08/2022 passed in AS No.84 of 2018 by the Additional Sub Court, Palani, Dindigul District, confirming the judgment and decree, dated 05/03/2018 passed in OS No.249 of 2013 by the District Munsif Court, Palani, Dindigul District.

2.Right from 10/06/2024, the matter is pending for arguing the matter on the side of the appellant. Repeatedly this matter is listed, the appellant is enjoying the interim order continuously.

3.Repeatedly, the respondents also submitted that after getting the interim order, the appellant has not come forward to argue the matter. On 08/07/2024, the learned counsel appearing for the appellant would submit that possibility of settlement can also be explored, since the issue is between two brothers. So, the matter was adjourned. But no settlement was reached between them.

4.When the matter was listed yesterday, the learned counsel appearing for the appellant has submitted that because of his health condition, he was not in a position



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to argue the matter. He requested to post the matter specifically at 2.15 pm today, so that he can accommodate and argue the matter. In the morning, the Junior Counsel for the appellant present before this court. But in the afternoon, there was no representation.

5.In view of the above, this second appeal is **dismissed** for default with costs. Consequently, connected Miscellaneous Petitions are closed.

6.After passing the order, the learned Senior counsel appearing for the 1st respondent would submit that the appellant is enjoying the interim order, so if the second appeal is restored to file, automatically the interim order already granted also to be restored. On that account, he wants to vacate the interim order itself. When the second appeal is dismissed for default, there is no necessity to pass any order for vacating the interim order. It will automatically goes. It is made clear that the interim order will not be restored.

01/08/2024

Index:Yes/No
Internet:Yes/No
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To,

<https://www.mhc.tn.gov.in/judis>
<https://www.mhc.tn.gov.in/judis>



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- 1.The Sub Judge,
Palani,
Dindigul District.
- 2.The District Munsif,
Palani,
Dindigul District.
- 3.The Section Officer,
VR/ER Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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