



CMP(MD) No.15647 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Civil Appellate Jurisdiction

Friday, the Twelfth day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice KRISHNAN RAMASAMY

CMP(MD) No.15647 of 2023

in

SA. No.1960 of 2003

Madha Naicker

... Petitioner/ Appellant

Vs

Bomma Naicker

... Respondent/ Respondent

Prayer in CMP(MD) No.15647 of 2023:-

This Civil Miscellaneous Petition is filed under order XLI Rule 21 of C.P.C., to recall the order passed by this Hon'ble Court in SA No.1960 of 2003 dated on 19.07.2023

Prayer in SA No.1960 of 2003:-

Second Appeal is filed under section 100 of C.P.C., against the judgment and decree of the Learned Subordinate Judge, Kulithalai, dated 27.06.2003 made in AS.No.20 of 2002 reversing that of the District Munsif, Kulithalai dated 11.07.2001 made in OS 281 of 1998.



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ORDER:-**

This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Ms.V.Sebastinal Preethi, Advocate for the Petitioner, this Court made the following order:

This Civil Miscellaneous Petition has been filed to recall the judgment and decree dated 19.07.2023 in S.A.No.1960 of 2003.

2. It appears that the sole respondent Mr.Bomma Naicker has passed away, however, during the course of hearing of the appeal before this Court, i.e., on 19.07.2023, the learned counsel for the appellant made a submission that the sole appellant has passed away. Taking into consideration and submission made by the learned counsel for the appellant, this Court, contented that there is no further claim and hence, nothing survives for adjudication in the second appeal. Accordingly, the second appeal was dismissed as infructuous. Now the appellant has filed the present recall petition stating that it has been wrongly mentioned before this Court that the sole appellant died instead of sole respondent Mr.Bomma Naicker. The appellant had also produced the certificate dated 09.10.2023 issued by the President, Gudalur Panchayat to the effect that the appellant is alive.



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3. Considering the fact, that the appellant is alive and only the respondent is died. Under these circumstances, this Court feels it appropriate to recall the judgment and decree dated 19.07.2023 passed by this Court.

4. Accordingly, the judgment and decree dated 19.07.2023 passed in S.A.No.1960 of 2003 stands recalled. Registry is directed to post the Second Appeal in the regular course.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/02/2024

Sub Assistant Registrar
(CS - I / II / III/ IV)

TO

1.The Subordinate Judge, Kulithalai.

2. The District Munsif, Kulithalai.

COPY to:

1. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

2. The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court, Madurai

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ORDER DATED : 12/01/2024

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RECALL THE ORDER

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CMP(MD) No.15647 of 2023
in
SA. No.1960 of 2003

Giving direction and etc.
as stated within.

DL/(13.02.2024)/ 4P/6 C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.