



S.A.No.1932 of 2002

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.01.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

S.A.No.1932 of 2002
and
C.M.P.No.16421 of 2002

Puravi Muthuraja

... Appellant/Appellant/
Plaintiff

Vs.

1.Palaniyandi

2.Selvaraja

... Respondents/
Respondents/Defendants

Prayer: Appeal filed under Section100 of Civil Procedure Code to set aside the judgment and decree dated 30.10.2001 made in A.S.No.115 of 2001 on the file of the Principal District Court at Trichy, confirming the judgment and decree dated 10.08.2000 made in O.S.No.447 of 1996 on the file of the District Munsif Court at Musiri.

For Appellant : Mr.K.Govindarajan

For R2 : Mr.S.Ramesh



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Respondent-1 : Dismissed
(*Vide* Court order dated 04.01.2024)

JUDGMENT

This matter earlier came up on 04.01.2024. This Court, having taken note of the fact that Respondent No.1 is no more and no steps have been taken to bring on record the legal representatives of deceased Respondent No.1, passed a conditional order granting time till today to take appropriate steps to bring on record the legal representatives of deceased Respondent No.1.

2. Today, when the matter is taken up for consideration, it is represented by the learned counsel for the appellant that the appellant is not interested to bring on record the legal representatives of deceased Respondent No.1 or to pursue the second appeal any further. In the circumstances, as the Second Appeal is already dismissed as abated as against Respondent No.1, by operation of the order dated 04.01.2024, this Second Appeal cannot be pursued as against Respondent No.2 alone, as the



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cause of action against Respondents No.1 and 2 is common and the decree of the lower appellate Court has become final as against Respondent No.1. The said decree cannot be interfered with, as the same has already become final in respect of Respondent No.1 and the same would operate as *res judicata*. In the circumstances, this Second Appeal is dismissed as against Respondent No.2 as well.

3. In the result, this Second Appeal is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

22.01.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes

ABR

To

1.The Principal District Judge,
Trichy.

2.The District Munsif,
Musiri.



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MUMMINENI SUDHEER KUMAR, J.

ABR

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