



SA.No.2135 of 2003

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

SA.No.2135 of 2003 and

CMP(MD).No.19857 of 2006

- 1.Rasu (died)
- 2.Pichaiammal
- 3.Kumarithai
- 4.Sundravalli
- 5.Murugaiah
- 6.Thamaraiselvi
- 7.Minor Anjugam
- 8.Minor Kanmani
(minors rep. by their guardian
Pichaiammal)
- 9.Chellammal
- 10.Chinnammal
- 11.Minor Pichaimuthu
(rep. by mother and guardian
Ms. chellammal)
- 12.Chellapappu
- 13.Rajamani
- 14.Lakshmi
- 15.Amirtham
- 16.Narikannu
- 17.Ilanjiaym
- 18.Anjalai
- 19.Veluamani
- 20.Karuppaiya
- 21.Minor Nagalakshmi
- 22.Minor Muthulakshmi
(Minors rep. by their mother / guardian Anjalai)



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23.R.Chellammal

24.R.Rathinam

25.R.Muthaiah

26.K.Vijaya

27.V.Vallikannu

28.R.Lakshmanan

(Appellants 23 to 28 are brought on record as LR's of the deceased appellants vide vide order, dated 01.02.2010 made in MP(MD).Nos.2 and 3 of 2009 in SA.No.2135 of 2003 by ASJ)

... Appellants

-VS-

1.Balamuthu Thalenjirier

2.Shanmugam (died)

3.Thulasi (died)

4.Periyasamy

5.Muthu Seeniammal

6.Mariappan

7.Kannan

8.Renganayagi

9.Sudararjan

10.Indira

11.Perumal

12.Pappu

13.Chinnaponnu

14.Bommayee

15.Mangulathal

16.Balu

17.Jayakumar

18.Amusu

19.Arumugham

20.Chellam

21.Karuppaiya

22.Thothan

23.Veeran

24.Lakshmanan

25.Chinnaponnu



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26.Ponnammal

27.Vesai

28.Marudhambal

29.Mariyammal

30.Ammasi

31.Chinnammal

32.Adaikappan

33.S.Palani

34.S.Arumugam

35.V.Ammasi

36.Palaniammal

(R33 to R36 are brought on record as LR's of the deceased 2nd respondent vide court order, dated 04.06.2020 made in CMP(MD).No.9926 / 2016 in SA.No.2135 of 2003 by TKRJ)

37. Muniyandi

38.Periyasami

39.Palaniammal

40.Padmini

(R37 to R 40 brought on record as LR's of the deceased 3rd respondent vide court order, dated 04.06.2020 made in CMP(MD).No.9926 / 2016 in SA.No.2135 of 2003 by TKRJ)

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Respondents

PRAYER: The Second Appeal is filed under Section 100 C.P.C against Judgment and decree, dated 16.04.2003 made in A.S.No.229 of 2002 on the file of the Additional District Judge, Trichirappalli, Fast Track Court No.I, confirming the Judgment and decree dated 18.07.2002 made in O.S.No. 167 of 1978 on the file of the First Additional District Munsif, Thiruchirappalli.



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For Appellants : Mr.B. Rajendran

For respondents 34 to 36 : Mr.S. Ramesh

JUDGMENT

Though the respondent Nos.4, 33, 37 and 39 were reported dead as early as on 01.02.2017, no steps have been taken so far to bring on record the LRs of the deceased respondents.

2. This Second Appeal is arising out of the suit in O.S.No. 167 of 1978. The said suit was filed for bare injunction and the same was dismissed by the trial Court and subsequently, confirmed by the appellate Court as early as in the year 2003. This Second Appeal was filed in the year 2003 and the same was dismissed as against the respondent Nos.1 and 5 to 32 as early as on 27.04.2007. The respondent Nos.4, 33, 37 and 39 were reported dead before this Court as early as on 01.02.2017. So far no steps have been taken to bring on record the LRs of the deceased respondent Nos.4, 33, 37 and 39. In view of the same, the Second Appeal is already abated in respect of the respondent Nos.4, 33, 37 and 39. The cause of action alleged in the plaint is common against all the respondents. As the Second Appeal has already been dismissed as against the



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respondents 1, 4, 5 to 33, 37 and 39, the Second Appeal does not survive as against other respondents. Further, the decree as against the above referred respondents also become final and the same cannot be interfered with by this Court as the decree that had become final as against some of the respondents would operate as *Resjudicata*.

3. In the circumstances, the Second Appeal is dismissed. In case, if the appellants have any fresh cause of action, it is open to them to take appropriate steps in accordance with law. No costs. Consequently, the connected Miscellaneous Petition is closed.

09.01.2024

Internet : Yes / No

Index : Yes / No

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To

1. The Additional District Judge, Fast Track Court No.I, Trichirappalli.
2. The First Additional District Munsif, Thiruchirappalli.



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