



S.A.No.50 of 2003

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.06.2024**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

S.A.No.50 of 2003

and

M.P.No.1 of 2011

1. Correspondent,
St. Antony's Higher Secondary School,
Alagappapuram Village,
Agatheeswaram Taluk,
Kanyakumari District.

2. Manager – Most Rev. Bishop of
Thoothukudi R.C.Schools,
Thoothukudi Pastorate,
Bishop Stowe,
Thoothukudi,
Thoothukudi District.

3. Superintendent,
R.C.Schools,
Bishop Stowe,
Thoothukudi District.

4. Vicariate Superintendent,
R.C.Schools,
Vallioor Vicariate,
6/47-L, Dr. Roos Town,
Kallikulam, Nellai District.

... Appellants/Appellants/
Defendants



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Vs.

1.Punitha Poomagal (Died)

.. Respondent/Respondent/
Plaintiff

2.M.Kalaichelvan

3.K.Kalaiarasu

4.K.Ezhilarasu

... Proposed Respondents

(R2 to R4 are brought on record as legal heirs of the deceased sole respondent vide Court order, dated 27.02.2024 in C.M.P(MD)No.1480 to 1482 of 2024)

PRAYER : Second Appeal filed under Section 100 of the Civil Procedure Code, against the judgment and decree of the learned Principal District Judge, Nagercoil in A.S.No.92 of 2001, dated 28.11.2002 preferred against the judgment and decree of the learned Principal District Munsif, Nagercoil in O.S.No.63 of 2001, dated 26.06.2001.

For Appellants : Mr.K.Ragadheesh Kumar
for M/s.Isaac Chambers

For R2 - R4 : Mr.G.Anto Prince

JUDGMENT

The defendants in O.S.No.63 of 2001 on the file of Principal District Munsif Court, Nagercoil are the appellants herein.



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2. The 1st respondent in the present appeal as plaintiff has filed the above suit for declaration that she is entitled to be appointed as Graduate Assistant in Tamil in the vacancy that has arisen due to the retirement of one Agustin in the 1st appellant school. She had further prayed that no other person should be appointed in the said vacancy in view of the seniority achieved by her in the register maintained by the defendants. She had further prayed for a mandatory injunction for her appointment to the said post. After contest, the suit was decreed by the trial Court on 26.06.2001.

3. The defendants therein had filed A.S.No.92 of 2001 on the file of the Principal District Court, Nagercoil. After contest, the appeal was also dismissed. Challenging the said judgment and decree, the present appeal has been filed by the defendants.

4. Pending second appeal, it is brought to the notice of the Court that the plaintiff in the suit, namely Punitha Poomagal who had sought for an appointment on the basis of her seniority, had passed away on



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25.09.2022. Therefore, at this point of time, the question of appointing the said plaintiff in the 1st appellant school does not arise. The legal heirs of the said Punitha Poomagal had filed C.M.P(MD)No.1480 of 2024 to implead themselves and the said application has been ordered on 27.02.2024. The prayer sought for by the original plaintiff is personal in nature and after her death, the legal heirs will not be able to prosecute the same. In such circumstances, the decree passed in O.S.No.63 of 2001 and confirmed in A.S.No.92 of 2001 has become in-executable as on today. In such circumstances, no further adjudication is called for.

5. Hence, the Second Appeal stands closed. No costs. Consequently, connected Miscellaneous Petition is closed.

05.06.2024

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Index : Yes / No
Internet : Yes / No



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To

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- 1.The Principal District Judge,
Nagercoil.
- 2.The Principal District Munsif,
Nagercoil.
- 3.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR ,J.

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Order made in
S.A.No.50 of 2003

Dated:
05.06.2024