



SA.No.898 of 2003

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 29.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

SA.No.898 of 2003 and

CMP(MD).No.8112 of 2003

D.Muthu

Appellant

-VS-

1.Thangasamy

2.S.Prakasam

.. Respondents

PRAYER: The Second Appeal is filed under Section 100 C.P.C to set aside the Judgment and Decree, dated 28.02.2003 in A.S.No.9 of 2000 on the file of the Subordinate Judge, Pudukkottai, reversing the Judgment and Decree dated 09.09.1999 in O.S.No.92 of 19997 on the file of the District Munsif cum Judicial Magistrate, Thirumayam.

For Appellants : Mr.C.Mahadevan

For respondents : R1- died
R2- No appearance

JUDGMENT

This matter earlier came up for consideration on 10.01.2024 as



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there was no representation for the appellant, it was directed to be listed under the caption “for dismissal”. When the matter was listed under the caption for dismissal 11.01.2024, at the request of the learned counsel for the appellant, the matter was adjourned to today conditionally to enable the appellant to bring on record LR’s of the deceased first respondent. The death of the first respondent was brought to the notice of the appellant as early as on 21.01.2022. Hence, this court finally granted time till today for bringing on record LR’s of the deceased 1st respondent.

2. Today, when the matter was taken up for consideration, the learned counsel appearing for the appellant filed a memo, dated 11.01.2024 reporting “no instructions”. In the circumstances, by operation of the order, dated 11.01.2024 the appeal shall stand dismissed as against the first respondent / plaintiff. As the suit was filed by the respondents / plaintiffs jointly basing upon the common cause of action and the appeal is already dismissed as abated as against the 1st respondent / plaintiff, the appeal in respect of the 2nd respondent also does not arise.

3. In the circumstances and also taking into consideration of the memo filed by the learned counsel for the appellant, the Second Appeal is



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dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

29.01.2024

Internet : Yes / No
Index : Yes / No
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To

1. The Subordinate Judge, Pudukkottai.
2. The District Munsif cum Judicial Magistrate, Thirumayam.



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MUMMINENI SUDHEER KUMAR. J.

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