



S.A.(MD)No.1047 of 2005

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.06.2024

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

S.A.(MD)No.1047 of 2005

1.Mrs.Ponnammal

2.Mrs.Selvakani Ammal

3.Mrs.Chidambaram Ammal

4.Mrs.Suyambu Kani

5.Mrs.Alagammal

... Appellants

Vs

1.Ponniah Nadar

2.Srinivasan

3.Mohamed Ali

4.Arumugam

5.Narayana Nadar

6.Subbiah

7.Sivananainda Perumal

... Respondents

PRAYER: Second Appeal filed under Section 100 of C.P.C. against the judgment and decree of the II Additional Subordinate Judge, Tirunelveli dated 13.02.2004 in A.S.No.168/2002 by dismissing the appeal and confirming the decree and judgment made in O.S.No.415/1995 dated 02.07.2002 on the file of the District Munsif, Valliyoor.



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For Appellants : Mr.V.Shathurthi Raja for
Mr.S.Natesh Raja

For Respondents : Mr.M.P.Senthil for
Mr.G.Prabhu Rajadurai for R4, R5 and

R7

R1 to R3 and R6 - Died

JUDGMENT

The Second Appeal is arising out of a suit for partition. It is seen from the records that the appellants 1, 3 and 5 are no more. Though the death of the appellants 1, 3 and 5 was recorded as early as on 26.04.2024, till date no steps have been taken to bring on record the legal representatives of the deceased appellants. Therefore, the Second Appeal is abated in respect of appellants 1, 3 and 5. When the Second Appeal is abated against some of the sharers, the decree for partition passed by the Courts below attained finality as against those sharers. Hence, the appeal cannot be proceeded by other appellants and whole Second Appeal is deemed to be abated.

2. The learned counsel for the appellants submitted that he is unable to get any instructions from the surviving appellants and hence,



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reporting 'no instructions'. He has also made an endorsement to that effect in the Court bundle. Recording the same, the Second Appeal is dismissed as abated. There shall be no order as to costs.

05.06.2024

vsm
NCC : Yes / No
Index : Yes / No

To

- 1.Additional Subordinate Judge, Tirunelveli.
- 2.The District Munsif, Valliyoor.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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