



S.A.No.128 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 20.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

S.A.No.128 of 2009
and
M.P.Nos.1 & 2 of 2009

1.P.K.Ponnusamy Gounder
2.P.Rajendran

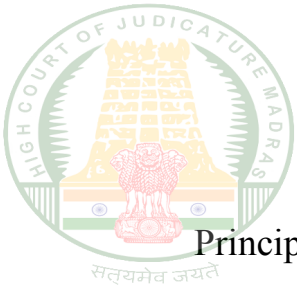
...Appellants

Vs.

1.Muniappa Gounder
2.Kolandaivel Gounder
3.Easwaramoorthy
4.Peramayammal
5.M.P.Ramasamy
6.S.N.Rangasamy
7.S.C.Muniappan
8.M.Nallasamy
9.P.Marasamy

...Respondents

Second Appeal filed under Section 100 of Civil Procedure Code, to allow the Second Appeal and set aside the Judgment and Decree passed in A.S.No.54 of 2006 dated 29.09.2008 on the file of Additional District Court, Fast Track Court – IV, Bhavani, Erode District reversing the Judgement and Decree passed in O.S.No.296 of 2005 dated 02.03.2006 on the file of



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Principal District Munsif Court, Bhavani, Erode District.

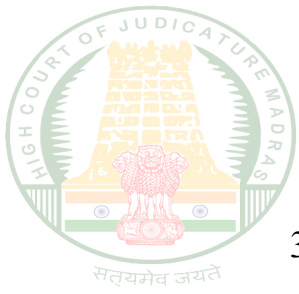
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For Appellants : Mr.K.S.Jayaganesan
For Respondents : Mr.T.Murugamanikam (For R3)
R1, R2, R4, R6, R7 & R8 – Died
v/c order dated 06.06.2025.

JUDGMENT

The Second Appeal has been instituted to set aside the Judgment and Decree passed in A.S.No.54 of 2006 dated 29.09.2008 on the file of Additional District Court, Fast Track Court – IV, Bhavani, Erode District reversing the Judgement and Decree passed in O.S.No.296 of 2005 dated 02.03.2006 on the file of Principal District Munsif Court, Bhavani, Erode District.

2. The first appellant had died. The second appellant, however, is the son of the first appellant. The first and second respondents, who were the first and second defendants have also died. The 4th, 5th, 7th and 8th respondents have also died. They were also defendants in the suit. The second appeal has not yet been admitted.



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3. The learned counsel for the appellants has filed a memo, which is as

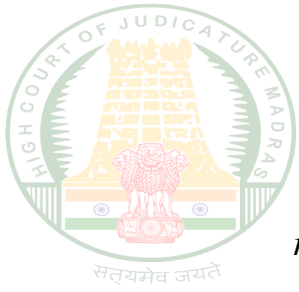
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MEMO FILED BY THE COUNSEL FOR THE APPELLANT

1) *It is submitted that the above case was listed before the Joint Registrar (AS) on 12.03.2025 and was adjourned to 27.03.2025 for taking necessary steps to bring the legal heirs. Hence, I had sent notice to the 2nd appellant namely Rajendran by way of RPAD. The RPAD was returned as “in sufficient” address. Subsequently, the above case was listed for hearing on 27.03.2025 before the Joint Registrar (AS) and was adjourned by two weeks for taking necessary steps failing which the matter will be posted before the Court.*

2) *It is respectfully submitted that the above case came up for hearing on 06.06.2025 before this Hon'ble Court and the case was adjourned to 20.06.2025 for bringing the legal heirs of deceased 1st appellant as well as respondents 1, 2, 4, 6, 7, 8. In spite of my best efforts I am unable to contact parties hence could not get the particulars of the deceased 1st appellant as well as respondents 1, 2, 4, 6, 7, 8. Therefore, the Counsel for the appellant is constrained to report “No Instructions” from the appellant. The copy of the letter, dated 24.03.2025 is annexed herewith as proof.*

Therefore, it is humbly prayed that this Hon'ble Court



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*may be pleased to dismiss the above case as abated and thus
render justice.*

Dated at Chennai on this the 18th day of June, 2025.”

4. It is thus seen that the appeal suffers abatement and the Second Appeal is liable to be dismissed on that ground. Accordingly, the Second Appeal stands dismissed as abated. The appellants have not taken steps to bring on record other Legal Representatives of the first appellant and also the Legal Representatives of the deceased respondents. No costs. Connected miscellaneous petitions are closed.

20.06.2025

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Index : Yes/No
Speaking Order/Non-Speaking order

To

1. The Additional District Court,
Fast Track Court – IV,

4/6



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Bhavani,
Erode District.

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2.The Principal District Munsif Court,
Bhavani, Erode District.

3.The Section Officer,
V.R.Section,
High Court, Madras.

C.V.KARTHIKEYAN, J.

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20.06.2025