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S.A.No.982 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-06-2025

CORAM

THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN

SA No.982 of 2009

P.G.Jayaraman

... Appellant / Plaintiff

Vs.

1.Rajeswari Ammal

2.P.Radha Krishnan

3.P.T.Muthu Kumara Swamy Chetty

4.Gnana Soundari

5.Gangadharan

6.Lakshmanan

7.Parvathi

... Respondents / Defendants

Prayer: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the judgment and decree of the Trial Court in O.S.No.449 of 1986 dated 30.11.2004 on the file of the District Munsif Court, Ponneri and confirmed in A.S.No.42 of 2005 dated 29.10.2008 by the Additional District cum Fast Track Court No.4 at Ponneri.

For Appellant : No appearance

For Respondents : Mr.N.R.Anantha Ramakrishnan for R3



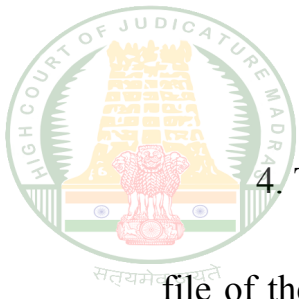
JUDGMENT

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This Second Appeal has been filed to set aside the judgment and decree of the Trial Court in O.S.No.449 of 1986 dated 30.11.2004 on the file of the District Munsif Court, Ponneri and confirmed in A.S.No.42 of 2005 dated 29.10.2008 by the Additional District cum Fast Track Court No.4 at Ponneri.

2. No representation for the appellant. Heard Mr.N.R.Anantha Ramakrishnan, learned counsel for R3 and perused the materials available on record.

3. This Second Appeal has not yet been admitted. On 03.09.2021, the learned counsel for the appellant had sought time to implead the legal heirs of the deceased sole appellant. Till this date, steps have not been taken. There is also no representation for the appellant. By any mathematical calculation, the appeal stands abated, since steps have not been taken to bring on record the legal heirs of the appellant.



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4. The appellant was the plaintiff in the suit in O.S.No.449 of 1986 on the file of the District Munsif Court, Ponneri. The suit had been filed for partition and allotment of 1/2 share in the suit properties for the plaintiff / appellant herein and for permanent injunction restraining the defendants from alienating the suit properties.

5. The case of the appellant / plaintiff is that the suit property was an ancestral property. But, this fact had been denied by the third defendant who in his written statement has claimed that he had been in exclusive possession and enjoyment of the item Nos.1,2 and 3 of the suit properties in his capacity as a purchaser and that he had also mutated his title in the revenue records. The learned Trial Judge has dismissed the suit on 30.11.2004 holding that the properties were not ancestral in nature and that they were not available for partition. The plaintiff / appellant then filed an Appeal Suit in A.S.No.42 of 2005 before the District Munsif Court / Fast Track Court at Ponneri and by judgment dated 29.10.2008, the First Appellate Court concurred with the findings of the Trial Court and dismissed the Appeal Suit.



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6. This Second Appeal came up for hearing for the first time on 29.09.2009 and it was recorded that there was no representation and thereafter, it had been adjourned. Additionally, the appellant had also died and steps have not been taken to implead the legal heirs. Further, on 14.12.2022, the learned Single Judge of this Court had directed that steps should be taken in so far as 4th, 5th and 6th respondents are concerned and if steps are not taken by 04.01.2023 the appeal shall stand automatically dismissed. The Registry had also put up a note on 11.01.2023, that batta had not been paid.

7. In view of all these circumstances, this Second Appeal is dismissed. No costs.

12-06-2025

Index : Yes / No

Internet : Yes

Speaking / Non-Speaking Order

gsk



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1.The District Munsif Court,

Ponneri.

2.The Additional District cum Fast Track Court No.4,

Ponneri.



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C.V. KARTHIKEYAN,J.
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