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SA(MD)No.117 of 2019

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

S.A.(MD).No.117 of 2019

and

C.M.P.(MD)No.3023 of 2019

Chandra @ Chandramathi

... Appellant/Appellant

Vs

1.Pitchammal

... 1st Respondent/
1st Respondent/
Plaintiff

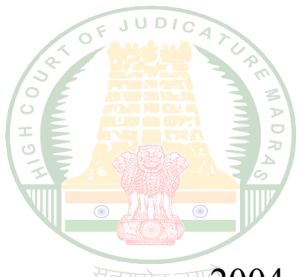
2.Antony Raj

3.Michael Raj

4.The Commissioner of Police,
Office of the Commissioner of Police,
Tirunelveli.

... Respondents 2 to 4/
Respondents 2 to 4/
Defendants 2 to 4

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, to set aside the Judgment and Decree passed in A.S.No.128 of 2012 on the file of the Additional Sub Court, Tirunelveli, dated 10.06.2014, confirming judgment and decree passed in O.S.No.1316 of



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2004 on the file of the 1st Additional District Munsif Court, Tirunelveli,
dated 20.06.2011.

For Appellant : Mr.M.P.Senthil
For R1 : Died
For R2 & R3 : No Appearance
For R4 : Mr.B.Saravanan
Additional Government Pleader

JUDGMENT

This second appeal has been filed challenging the judgment and decree dated 20.01.2022 passed in A.S.No.128 of 2012 on the file of the Additional Sub Court, Tirunelveli, dated 10.06.2014, confirming judgment and decree passed in O.S.No.1316 of 2004 on the file of the 1st Additional District Munsif Court, Tirunelveli, dated 20.06.2011.

2. The parties are referred, as per the litigative status before the Additional Sub Court, Tirunelveli,

3. Originally, the first respondent, namely, Pitachammal had filed a suit in O.S.No.1316 of 2014 as against the appellant, the respondents 2



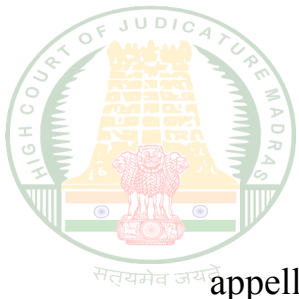
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and 3, who are the children of the appellant and the fourth respondent.

The relief sought for in this suit was to declare the first respondent as the legally wedded wife of Maria Chelldurai and she is entitled to the retirement benefits of Maria Chelldurai. The Trial Court, by judgment and decree, dated 20.06.2011, partially decreed the suit declaring the first respondent, Pitachammal as the first wife of deceased Maria Chelldurai and held that she is entitled to receive the equal share in the death benefits of her deceased husband, namely, Maria Chelldurai along with the respondents 2 and 3, who are the children of the appellant. Assailing the judgment and decree, the appellant preferred first appeal in A.S.No.128 of 2012 before the Additional Sub Court, Tirunelveli. By judgment and decree, dated 10.06.2014, the appeal came to be dismissed. Against which the appellant has preferred the above second appeal.

4. The appellant had not taken any steps to serve notice on the first respondent. Therefore, the appeal as against the first respondent came to be dismissed as early as on 18.02.2020. In the first appeal, when already 50% of the benefits has been granted in favour of the children of the



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appellant, who are the defendants 2 and 3 in the suit, the only relief sought for by the appellant in this appeal is against the plaintiff/first respondent, namely, Pitachammal, as she has been declared as first wife and 50% of the retirement benefits has been granted to her. When already the appeal as against the first respondent has been dismissed by this Court on 18.02.2020 itself, effectively nothing more survives for adjudication in this appeal as already the balance 50% of the retirement benefits had been granted in favour of the children of the appellant.

5. It is unfortunate to note that even after 5 years lapsed, appellant had not chosen to take any steps to restore the appeal as dismissed against the contesting first respondent.

6. In view of the same, since the appeal as against the contesting first respondent has been dismissed in the year 2020 itself and no steps have been taken by the appellant, nothing survives for further adjudication in this appeal.



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7. Therefore, in such circumstances, the second appeal is dismissed as infructuous. No costs. Consequently, the connected miscellaneous petition is closed.

06.06.2025

Index : Yes / No
NCC : Yes / No
sn

TO:

1. The Additional Sub Court,
Tirunelveli,
2. The 1st Additional District Munsif Court,
Tirunelveli,
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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G.ARUL MURUGAN, J.

Sn

Judgment made in
S.A.(MD)No.117 of 2019

Dated:
06.06.2025