

S.A.(MD)No.359 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.06.2025

CORAM

THE HON'BLE MR.JUSTICE **G.ARUL MURUGAN**

S.A.(MD)No.359 of 2018
and
C.M.P.(MD)No.10173 of 2018

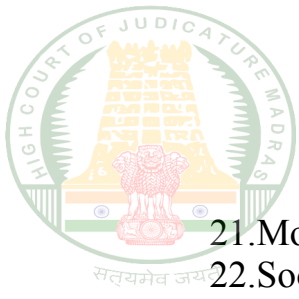
1.Joseph Stephen
2.Michael Prabha Joseph

... Appellants

VS

1.Sisily
2.Arputhamma
3.Ceasor
4.Paniyadimai
5.Thopias
6.Simon
7.John
8.Emilias
9.Ponikarippu
10.Soochangalis
11.Mary Guilda
12.Wilfred
13.Joseph
14.Mary
15.Agnes
16.Syrus
17.Glytans
18.Muthayyan
19.Gimmy
20.Mariadhas

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- 21.Mony
- 22.Soosainaygam
- 23.Jegan
- 24.Mariapushpam
- 25.Retnamma
- 26.Vijayarani
- 27.Thatheyus
- 28.Billus
- 29.Purosia
- 30.Josy
- 31.John Gilbert
- 32.Justin
- 33.Brigithal
- 34.Virgin Mary
- 35.Rudolf
- 36.Suja
- 37.Marianoppolian

...Respondents

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the judgment and decree, dated 21.09.2017 passed in A.S.No.3 of 2014 and Cross Appeal on the file of the Subordinate Court, Kuzhithurai, modifying the judgment and decree, dated 27.09.2013 passed in O.S.No.317 of 2008 on the file of the Principal District Munsif Court, Kuzhithurai.

For Appellants	:Mr.G.Venugopal
R1 and R3	:Died
For R2	:No Appearance
R4 to R37	:Dispensed with



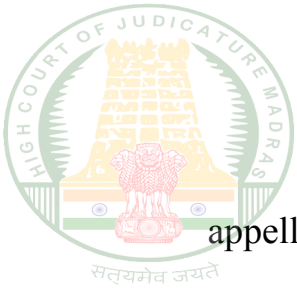
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JUDGMENT

This Second Appeal has been filed challenging the judgment and decree, dated 21.09.2017 in A.S.No.3 of 2014 and Cross Appeal on the file of the Subordinate Court, Kuzhithurai, modifying the judgment and decree, dated 27.09.2013 passed in O.S.No.317 of 2008 on the file of the Principal District Munsif Court, Kuzhithurai.

2.It is seen that the first respondent herein, one Sisily, had filed a suit for partition in O.S.No.317 of 2008. The said suit was decreed in respect of granting 1/10 share out of 1/2 portion without any disturbance to the residential houses of the defendants 38 and 39 and the suit was dismissed in respect of the residential houses of the first item of the suit property. The appellants herein filed an appeal in A.S.No.3 of 2014 and the plaintiff, Sisily, had also preferred Cross Appeal. The lower appellate Court by judgment and decree, dated 21.09.2017, had dismissed the appeal preferred by the appellants and allowed the Cross Appeal filed by the plaintiff by modifying the decree of the trial Court by granting the relief in respect of all the properties including the first item of the suit property. Aggrieved, the



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appellants have preferred the above appeal.

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3.It is to be noted that the plaintiff in the suit is the first respondent in this appeal. Notice to the respondents 4 to 37 has been dispensed with by order, dated 06.12.2025, as it was submitted by the appellants that the respondents 1 to 3 are the contesting parties and the second respondent was alone served and the respondents 1 and 3 was reported dead. The Second Appeal has been adjourned to several hearings for taking steps to substitute the legal heirs of the deceased respondents 1 and 3.

4.When the appeal was listed for hearing on 03.06.2025, this Court passed the following order:

“This Court, by order dated 06.02.2025, dispensed with the notice to the respondents 4 to 37 and directed to issue notice to the respondents 1 to 3. The second respondent has been served, and his name is printed in the cause list.

2.The learned counsel for the appellants would submit that the respondents 1 and 3 had died. Since there are no legal heirs, they have to file a memo to that effect.

3.It is seen that already on more than three occasions, the matter has been adjourned for impleading necessary parties. As a last chance, post the matter on 20.06.2025.”



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5.Even today, when the Second Appeal is listed for hearing, it is seen

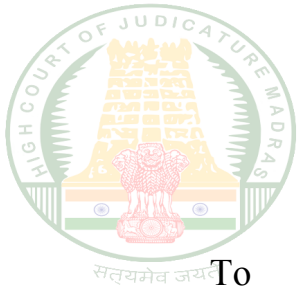
that no steps has been taken to substitute the legal heirs of the deceased respondents 1 and 3. As recorded earlier, the first respondent, who was the plaintiff in the suit, is the contesting party and when no steps has been taken against the first respondent till date, in spite of affording several opportunities, it is evident that the appellants are not interested in prosecuting the appeal.

6.In view of the above, the Second Appeal is dismissed as abated. No costs. Consequently, connected miscellaneous petition is closed.

20.06.2025

Internet :Yes/No
Index :Yes/No
NCC :Yes/No

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To

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- 1.The Subordinate Judge, Kuzhithurai.
- 2.The Principal District Munsif, Kuzhithurai.
- 3.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ARUL MURUGAN, J.

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Judgment made in
S.A.(MD)No.359 of 2018

20.06.2025