

T.O.S. No. 44 of 2008

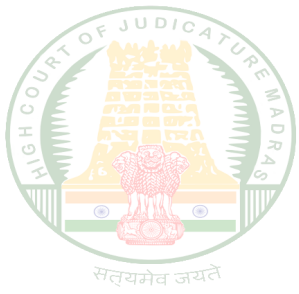
N. SESHASAYEE,J.

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The 1st defendant is dead and his legal representatives have been brought on record as defendants 5 to 7 vide order of this Court in Application No. 4015 of 2021 dated 15.11.2021. The amendment is yet to be carried out.

2. The testamentary original suit is entering its 14th year of its conversion as a testamentary suit. Indeed, from the date of the original petition, this is the 16th year and defendants 1, 2 and 4 have not filed their written statement as yet.

3. The physical hearing of Courts was interrupted by Covid Protocol in running the Courts only from 25.03.2020. In between, there were a couple of months when the Court also adopted dual mode of hearing. Even if Covid disruption of holding physical hearing in Courts is taken into consideration, that will account only for the last 2 years. This implies that for 12 years, these defendants have not chosen to file any written statement, which shows that they are not interested in contesting the testamentary suit.



N. SESHASAYEE,J.

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Eventhough physical hearing has again been suspended now due to Covid - Wave 3, this Court chooses to set defendants 2 and 4 ex parte since there is nothing on record to indicate that they were shown to be anxious any time the first 12 years since the conversion of the suit into testamentary original suit to file their written statement.

4. So far as the 1st defendant is concerned, because his legal heirs have been impleaded only now as defendants 5 to 7, one last opportunity is given to them.

5. Plaintiff is required to carry out necessary amendment pursuant to the order dated 15.11.2021 passed in Application No. 4015 of 2021.

6. Post on 23.02.2022.

19.01.2022

nv

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