



S.A.No.548 of 2010

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WEB COPY **SATHI KUMAR SUKUMARA KURUP.J.,**

The learned Counsel for the Appellants submitted that the first Appellant died. The other Appellants 2 to 6 are the legal heirs of the first Appellant and they were already on record. She has to verify whether any legal representatives are to be impleaded. Therefore, she seeks time.

2. On 21.03.2025, the learned Counsel for the Appellant sought short adjournment. At this stage, the learned Counsel for the Respondent submitted that he is yet to receive the copies of the typed set. Therefore, the learned Counsel for the Appellant was directed to furnish copies of typed set to the learned Counsel for the Respondent.

3. Today, the learned Counsel for the Respondent submitted that he had received the copies of the typed set. Also, on the earlier hearing, this Court had sought remarks from the learned District Munsif, Rasipuram regarding the filing of E.P in continuation of Decree in O.S.No.448 of 1995.



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4. Today, as per the remarks of the learned District Munsif, Rasipuram in D.No.96/2025 dated 28.03.2025, it is found that E.P.No.136 of 2009 was pending due to the interim stay granted in the Second Appeal. The learned Counsel for the Decree Holder had filed a memo before the learned District Munsif, Panruti stating that after disposal of the Second Appeal, E.P may be disposed. Based on that, E.P was closed on 08.04.2024.

5. The learned Counsel for the Appellants is directed to proceed with the arguments as the successful Plaintiff/Decree Holder is prevented by an interim stay at the stage of admission of the Second Appeal.

6. The Second Appeal is of the year 2010, thereby unsuccessful Defendants had successfully delayed the execution of decree. The Decree for mandatory injunction ought to have been disposed off by the trial Court within three years. Regarding the mandatory injunction, E.P has to be filed within three years. All other E.Ps can be filed up to 12 years. Therefore, by



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the conduct of the unsuccessful Defendants, he had successfully delayed the execution of decree for mandatory injunction beyond three years. Therefore, he is duty bound to cooperate with the Court to dispose the Second Appeal, failing which, the Second Appeal had to be dismissed.

Post this case on 15.04.2025. Both parties are directed to file written submissions.

07.04.2025

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