



S.A.No.548 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 15.04.2025

CORAM :

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

S.A. No.548 of 2010

1. Sundararama Mudaliar

2. Chinnaponnu Ammal

3. Shanthi

4. Valli

5. Revathi

6. Sampath Kumar

... Appellants

Vs.

Saroja Ammal

...Respondent

PRAYER: Second Appeal filed under Section 100 of Code of Civil Procedure against the Judgment and Decree dated 10.11.2009 made in A.S.No.2 of 2009 on the file of the Sub Court, Panruti confirming the Judgment and Decree dated 23.12.2008 made in O.S.No.448 of 1995 on the file of the District Munsif Court, Panruti.



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For Appellant : Mr.T.K.S.Gandhi
For Respondent : No Appearance

JUDGMENT

The learned Counsel for the Appellant files a memo and reports the death of the sole Respondent.

2. The learned Counsel for the Respondent is also present in Court. The Second Appeal had been preferred against the concurrent finding as well as the first Appellate Court. The Defendants in O.S.No.448 of 1995 on the file of the learned District Munsif, Panruti are the Appellants in the Second Appeal. The First Appeal preferred by the Defendants in A.S.No.2 of 2009 before the learned Sub Judge, Panruti was dismissed as per the Judgment dated 10.11.2009. Since the Second Appeal is of the year 2010 and not disposed off, repeatedly adjourned, this Court had sought remarks from the learned District Munsif, Panruti regarding filing of any E.P and the stage of E.P.

3. From the remarks offered by the learned District Munsif, Panruti in

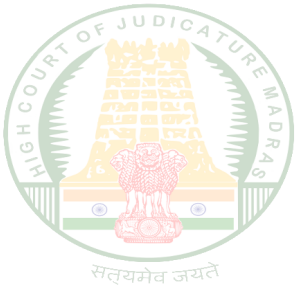


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D.No.96/2025 dated 28.03.2025, it is stated that E.P.No.136 of 2009 was filed in continuation of the Decree in O.S.No.448 of 1995. At that stage, Respondent/Judgment Debtor had filed memo stating that in M.P.No.1 of 2010 in S.A.No.548 of 2010 interim stay was granted. Therefore, E.P could not be disposed off. Subsequently, the Decree Holder had filed a memo requesting the Court to dismiss E.P with liberty to file a fresh E.P after disposal of the Second Appeal. Accordingly, E.P was dismissed.

4. The learned District Munsif is directed that E.P need not be dismissed, it can be closed. So that it can be revived after disposal of Second Appeal. The Appellants have been enjoying the interim stay for the past 15 years against the concurrent finding of the trial Court and the first Appellate Court. The Appeal itself is to be taken up for disposal at the earliest. Now pending Second Appeal, the Decree Holder died. Therefore, the learned Counsel for the Appellant is directed to take steps to implead the Legal Representatives of the sole Respondent/Decree Holder/Plaintiff.

Post this case after summer vacation.



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Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order

dh

SATHI KUMAR SUKUMARA KURUP.J.,

dh

To

1. The District Munsif,
Panruti. (Copy of this judgment shall be sent through e-mail)

2. The Sub Judge,
Panruti.

Note: Issue order copy on 15.04.2025

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