

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7815 OF 2011
(Arising out of S.L.P. (C) No.18974 of 2008)

M. KALAI SELVI & ORS.

Appellant(s)

VERSUS

DINDIGUL MUNICIPALITY TR.COMMR.

Respondent(s)

O R D E R

Leave granted.

This appeal is directed against the judgment

and

order dated 12th July, 2007, passed by the Madurai Bench of the Madras High Court in Second Appeal No.1 of 1995, allowing the appeal and setting aside the judgment and order of the First Appellate Court granting injunction in favour of the appellant, who is the plaintiff in the suit in question.

From the impugned judgment itself, it would

be

evident that the Second Appeal was disposed of in absence of the appellant herein, since the appellant's lawyer was not present when the matter was taken

up.

However, there is no indication as to whether the appellant had defaulted on earlier occasions, which could have been one of the circumstances which compelled the High Court to

CA 7815/11

dispose of the Second Appeal in the absence of the appellant.

Having regard to the above and having considered the submissions made on behalf of the respective parties, we allow the appeal, set aside the judgment and order of the

Madurai Bench of the Madras High Court, which is impugned in the appeal, and remit the matter to the High Court for de novo disposal of the Second Appeal, after giving the parties an opportunity of hearing. We also make it clear that the matter must be disposed of at an early date, since it had already been listed for final disposal, preferably within three months from the date of communication of this order.

.....J.
(ALTAMAS KABIR)

.....J.
(SURINDER SINGH NIJJAR)

.....J.
(GYAN SUDHA MISRA)

New Delhi;
September 12, 2011.

CA 7815/11

3

ITEM NO.28

COURT NO.2

SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).18974/2008

(From the judgement and order dated 12/07/2007 in SA No.1/1995
of The HIGH COURT OF MADRAS)

M.KALAI SELVI & ORS., Petitioner(s)

VERSUS

DINDIGUL MUNICIPALITY TR.COMMR. Respondent(s)

(With appln(s) for exemption from filing O.T., BRING ON RECORD
SUBSEQUENT EVENT and prayer for interim relief)

Date: 12/09/2011 This Petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ALTAMAS KABIR
HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s) Ms. Indu Malhotra, Sr. Adv.
Mr. G. Balaji, Adv.
Ms. Mahalakshmi Pavani, Adv.
Mr. Mukesh, Adv.
M/S. Mahalakshmi Balaji & Co

For Respondent(s) Mr. S. Aravindh, Adv.

Mr. V. Balachandran, Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

CA 7815/11

4

(Chetan Kumar)
Court Master

(Juginder Kaur)
Assistant Registrar

(Signed order is placed on the file)