

C.M.P.No.17117 of 2016
in
C.M.A.No.1438 of 2011

M.JAICHANDREN, J.
AND
S.BASKARAN, J.

Heard the learned counsel appearing for the petitioner, as well as the learned counsel appearing for the respondent.

2. This petition has been filed, praying that this Court may be pleased to set aside the order of dismissal, dated 11.8.2016, dismissing the Civil Miscellaneous Appeal in C.M.A.No.1438 of 2011, for default, and to restore the Civil Miscellaneous Appeal in C.M.A.No.1438 of 2011, on the file of this Court,

3. In the affidavit filed in support of the petition, it has been stated that the mother-in-law of the counsel appearing on behalf of the appellant had died on 9.8.2016, and the funeral ceremonies were held on 11.8.2016, at Sivakasi. In such circumstances, the learned counsel appearing on behalf of the appellant could not be present in the Court, on 11.8.2016, and therefore, the appeal was dismissed for default.

4. Even though, the learned counsel appearing on behalf of the respondent had sought time for filing a counter, we are of the considered view that the reasons shown by the learned counsel appearing on behalf of the

appellant, for her non appearance in the Court, on 11.8.2016 are acceptable.

5. In such circumstances, we find it appropriate to restore the Civil Miscellaneous Appeal, in C.M.A.No.1438 of 2011, on the file of this Court, setting aside the order, dated 11.8.2016, passed in C.M.A.No.1438 of 2011.

6. The Civil Miscellaneous Petition is ordered, accordingly. Registry is directed to list the Civil Miscellaneous Appeal in C.M.A.No.1438 of 2011, on 21.11.2016.

(M.J.,J.) (S.B., J.)
26.10.2016

M.JAICHANDREN, J.
AND
S.BASKARAN, J.

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