



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Thursday, the Twenty Fifth day of January Two Thousand Eighteen

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PRESENT

The Hon`ble Mrs.Justice S.RAMATHILAGAM

CMP(MD) Nos.11073 to 11075 of 2017

IN

SA(MD) No.427 of 2007

N.BOMMARAJ,

... PETITIONER/APPELLANT IN
ALL THE PETITIONS

Vs

1 KALIAMMAL,
2 B.NAGARAJAN,
3 SOOLAMANAICKER
4 SUBBA NAICKER,
5 PALANISAMY,
6 C.NAGAPPAN,

7 N.KANNAIYAN (DIED)

...RESPONDENTS 1 to 7/

RESPONDENTS 1 to 7

IN ALL THE PETITIONS

8 SUSEELA
9 MINOR DINESHKUMAR,
10 MINOR SANTHOSHKUMAR,
(RESPONDENTS 9 AND 10 REPRESENTED
THROUGH THEIR MOTHER AND
NEXT FRIEND SUSEELA)

... RESPONDENTS/PROPOSED RESPONDENTS 8 to 10
LRs OF THE DECEASED 7th RESPONDENTS
IN ALL THE PETITIONS

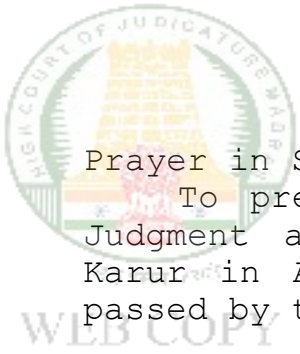
Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to condone the delay of 1513 days in filing the petition to set aside the abatement caused due to the death of the 7th respondent and thus render justice.

Prayer in CMP(MD). 11074/ 2017 :

To set aside the abatement caused due to the death of the 7th respondent in the above second appeal and thus render justice.

Prayer in CMP(MD). 11075/ 2017 :

To bring on record the Proposed respondents 8 to 10 herein as the legal representatives of the deceased 7th respondent as respondents and rank them as respondents 8 to 10 in the above Second appeal and thus render justice.



Prayer in SA(MD). 427/ 2007 :

To prefer the above Memorandum of Grounds of SA against the Judgment and decree dt.15.11.2006 passed by the District Judge, Karur in AS.4/2006 reversing the Judgment and decree dt.9.9.2005 passed by the Additional District Munsif, Karur in OS.606/2004.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.H.THAYUMANASAMY, Advocate for the petitioner in all the petitions and of MR.D.NALLATHAMBI, Advocate for R1 to R3, the court made the following order:-

These petitions have been filed to condone the delay of 1513 days in filing the petition to set aside the abatement caused due to the death of the 7th respondent, to set aside the abatement and to bring on record the legal heirs of the deceased 7th respondent.

2. On perusal of the records, it is learn that the suit in O.S.No.606 of 2004 was filed before the Additional District Munsif Court, Karur for bare injunction and the Trial Court dismissed the suit on merits. Against which the respondents herein preferred an appeal in A.S.No.4 of 2006 and the same was allowed and the Judgment of the Trial Court in O.S.No.606 of 2004 was set aside, against which, the Second Appeal has been preferred. During the pendency of this Second Appeal the seventh respondent namely N.Kanniyan died on 27.07.2012. It is also represented by both the counsel, after numbering of the appeal, it came in the list only in the year 2013 and in the meanwhile during the period 2012, the seventh respondent died. Hence the delay has occurred beyond. Accordingly the responsibility of delaying the matter is not only on both the counsel, but fault lies on the Registry also for such a delay in listing the matter after so many years.

3. These petitions are allowed on payment of cost of Rs.500/- (Rupees Five Hundred Only) to the Legal Aid Service Authority, attached to this Bench, within a period of two weeks from the date of receipt of a copy of this order, failing which, these petitions shall stand automatically dismissed without further reference to this Court.

sd/-
25/01/2018

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



1 THE ADDITIONAL DISTRICT MUNSIF, KARUR

2 THE DISTRICT JUDGE,
KARUR

3 THE AUTHORIZED OFFICER,
LEGAL AID SERVICE AUTHORITY
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

ORDER
IN
CMP (MD) Nos.11073 to
11075 of 2017
IN
SA(MD) No.427 of 2007
Date :25/01/2018

SMA/RR/SAR-3/06.02.2018:3P/4c