



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

Friday, the Twelfth day of October Two Thousand Eighteen

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PRESENT

**The Hon`ble Mr.Justice C.V.KARTHIKEYAN**

**CMP(MD) Nos.7 to 12 of 2018  
IN SA No.620 of 2000**

1 NATARAJ (DIED) ... 1<sup>st</sup> APPELLANT  
IN ALL THE PETITIONS

2 PARAMESHWARI  
3 SATHYANATHAN ... PETITIONERS 2 & 3/  
APPELLANTS 2 & 3  
IN ALL THE PETITIONS

4 NAGARAJ (DIED) ... 4<sup>th</sup> APPELLANT

5 JAYARAJ ... 5<sup>th</sup> PETITIONER/5<sup>th</sup> APPELLANT

6 N.THANGAVEL  
7 N.CHANDRASEKARAN  
8 T.RAJA RAJESWARI  
9 MINOR T.DEEPTHI BARKAVI ... PETITIONERS 6 to 9/PROPOSED  
APPELLANTS 6 to 9/LRs of 1<sup>st</sup> APPELLANT  
(Minor Petitioner is Represented  
by her mother and Guardian  
the 8<sup>th</sup> Petitioner.)

10 N.LAKSHMI  
11 N.MYTHILI  
12 N.PRIYA  
13 N.SELVAGANESH ... PETITIONERS 10 to 13/PROPOSED  
APPELLANTS 10 to 13/LR of 4<sup>th</sup> APPELLANT

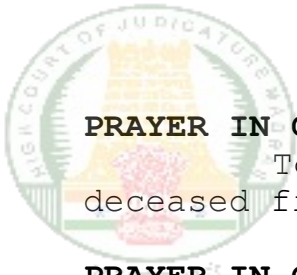
Vs

1 VALLIAMMAL

2 KARUPPANNA PANDARAM (DIED)  
(LRS NOT KNOWN). ... RESPONDENTS/RESPONDENTS

**PRAYER IN CMP(MD)No.7/2018 IN SA No.62/2000:**

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 3485 days in filing the Petition to set aside the abatement to bring on record the Legal representatives of the deceased first appellant Mr.Natarajan in the above Second Appeal.



**PRAYER IN CMP(MD)No.8/2018 IN SA No.62/2000:**

To set aside the abatement caused on the death of the deceased first appellant Nataraj in the above Second Appeal.

**PRAYER IN CMP(MD)No.9/2018 IN SA No.62/2000:**

To bring on record the petitioners 6 to 9 herein as the legal representatives of the Deceased First Appellant Nataraj and rank them as appellants 6 to 9 in the above Second Appeal.

**PRAYER IN CMP(MD)No.10/2018 IN SA No.62/2000:**

To condone the delay of 1108 days in filing the petition to set aside the abatement to bring on record the legal representatives of the deceased 4<sup>th</sup> appellant MR.T.Nataraj in the above Second Appeal.

**PRAYER IN CMP(MD)No.11/2018 IN SA No.62/2000:**

To set aside the abatement caused on the death of the deceased fourth appellant Nagaraj in the above Second Appeal.

**PRAYER IN CMP(MD)No.12/2018 IN SA No.62/2000:**

To bring on record the petitioners 6 to 9 herein as the Legal Representatives of the deceased Fourth appellant Mr.Nagaraj and rank them as Appellants 10 to 13 in the above Second Appeal.

**PRAYER IN S.A.No.620 of 2000:**

To prefer this Memorandum of Second Appeal against the judgment and decree dated 17.08.1994 made in A.S.No.47 of 1993 on the file of the Court of the Additional Subordinate Court, Dindigul in reversing the judgment and decree dated 25.09.1991 made in O.s.No.552 of 1982 on the file of the District Munsif of Palani.

ORDER :These petitions coming on for orders upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of M/S.K.ABIYA, Advocate for the petitioner in all the petitions and of MR.M.V.VENKATESHAN, Advocate for R1 in all the petitions, the court made the following order:-

S.A.No.620 of 2000 has been filed by the plaintiffs in O.S.No.552 of 1982. It is seen that the plaintiffs and the defendants have been litigating the suit filed seeking declaration of title and recovery of possession of the properties for more than 35 years. The suit was decreed. Thereafter, first appeal in A.S.No.47 of 1993 was allowed, dismissing the suit on 17.08.1994. A second appeal had been filed within time, but, it was numbered only in the year 2000, after a period of six years. The second appeal had been admitted and three substantial questions of law had been framed. In the meanwhile, the first appellant died.

2. C.M.P. (MD)No.7, 8 and 9 of 2018 had been filed to condone the delay of 3485 days in filing the petition to set aside the abatement to bring on record the legal representatives of the



deceased first appellant, namely, Mr.Natarajan, to set aside the abatement caused on the death of the deceased first appellant and to bring on record the petitioners 6 to 9 herein as the legal representatives of the deceased first appellant and rank them as appellants 6 to 9 in the second appeal.

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3. While these applications were pending, the fourth appellant also died. This necessitated the filing of C.M.P.(MD)No.10, 11 and 12 of 2018. C.M.P.(MD)No.10, 11 and 12 of 2018 had been filed to condone the delay of 1108 days in filing the petition to set aside the abatement to bring on record the legal representatives of the deceased fourth appellant, namely, Mr.T.Nagaraj, to set aside the abatement caused on the death of the deceased fourth appellant and to bring on record the petitioners 6 to 9 herein as the legal representatives of the deceased fourth appellant and rank them as appellants 10 to 13 in the second appeal.

4. The reasons stated in the affidavit filed in support of C.M.P.(MD)No.7, 8 and 9 of 2018 are that the first appellant had died on 14.02.1999. It was stated that in the interregnum period of filing the appeal and numbering the appeal, the death of the first appellant was not brought to the notice of the counsel.

5. In view of the above said facts, C.M.P.(MD)No.7, 8 and 9 of 2018 are dismissed for default. However, the applicants are granted liberty to file fresh application with a better affidavit explaining the reasons for the delay.

6. Insofar as C.M.P.(MD)No.10, 11, and 12 of 2018 are concerned, they have been filed with regard to the death of the fourth appellant. It is stated that the particulars of the legal heirs were not given and there was a difficulty in obtaining the same. A counter had been filed on behalf of the respondents stating that these applications are not maintainable. However, since this appeal has to be continued by the legal heirs of the deceased fourth appellant, C.M.P.(MD)No.10,11, and 12 of 2018 are allowed.

7. Registry is directed to record the death of the fourth appellant and to print the name of the legal heirs of the fourth appellant and rank them as appellants 6 to 9.

8. Post the second appeal in the first week of November 2018.

sd/-  
12/10/2018

/ TRUE COPY /



TO

1 THE DISTRICT MUNSIF, PALANI

2 THE ADDITIONAL SUBORDINATE JUDGE, DINDIGUL

+2. C.C. to Mr.K.RAJKUMAR, Advocate SR.Nos.19654, 19655

+1. C.C. to Mr.V.VENKATESHAN, Advocate SR.No.19710

ORDER

IN

CMP (MD) Nos.7 to 12 of 2018

IN

SA No.620 of 2000

Date :12/10/2018

SM

PK/RR/SAR-4/19.11.2018 : 4P/6C