



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

Monday, the Second day of April Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice S.S.SUNDAR

CMP(MD) Nos.2940 TO 2942 of 2016

IN

SA No.SR72489 of 2002

ARASU KONAR

... PETITIONER / PETITIONER /  
APPELLANT  
IN ALL THE PETITIONS

Vs

1 SANKARALINGA KONAR (DIED)

2 ARUMUGA DURAI

... RESPONDENTS 1,2/RESPONDENTS 1,2/  
RESPONDENTS 1,2  
IN ALL THE PETITIONS

3 ARUNACHALAM

4 SERMANATHAN

5 VIJAYA

6 CHITHRA

7 THANGAM

... RESPONDENTS 3-7/PROPOSED RESPONDENTS 3-7/  
PROPOSED RESPONDENTS 3-7  
IN ALL THE PETITIONS

PRAYER IN CMP(MD)No.2940/2016:-

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 3284 days in filing the petition to set aside the abatement caused due to the death of Sankaralinga Konar, the 1st respondent in the above SA.SR.No.72489/2002 and thus render justice.

Prayer in CMP(MD). 2941/ 2016 :

To set aside the abatement caused due to the death of Sankaralinga Konar, the 1st respondent in the above SA.SR.No.72489/2002 and thus render justice.

Prayer in CMP(MD). 2942/ 2016 :

To bring on record the respondents 3 to 7 herein, the legal heirs of deceased 1st respondent, as respondents 3 to 7 in the above SA.SR.No.72489/2002 and thus render justice.

PRAYER IN SA No.SR72489 of 2002:-

to present this Memorandum of Second Appeal against the judgment and decree dated 16.07.1999 and made in A.S.No.121 of 1996 on the file of Principal Sub-Ordinate Court, Tenkasi reversing the



Judgment and decree dated 28.10.1996 and made in O.S.No.144 of 1992 on the file of District Munsif Court, Tenkasi

ORDER : These petitions coming on for orders upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of Mr. R.SUBRAMANIAN, Advocate for the petitioner in all the petitions and the Respondents not appeared either in person or by an Advocate, in all the petitions, the court made the following order:-

These petitions are filed to condone the delay of 3284 days in filing the petition to set aside the abatement caused due to the death of the first respondent, to set aside the abatement caused due to the death of the first respondent and to bring on record the respondents 3 to 7 as legal representatives of the deceased first respondent and rank them as respondents 3 to 7 in the above appeal.

2.It is stated in the affidavit filed in support of these petitions that the petitioner is an illiterate person and that he is not aware of the legal consequences of the death of a party during the pendency of the proceedings. It is further stated that the appeal was filed before the Principal Bench of this Court and that it was transferred to this Bench after bifurcation. It was only when the case was listed finally before this Bench, on the advice of the present Counsel, the present petition has been filed with a long delay of 3284 days.

3.Though the delay is inordinate, this Court is of the view that the same can be condoned as no serious prejudice will be caused to the legal heirs of the first respondent, as the matter is still pending. Though the reasons stated in the affidavit are not satisfactions to explain the huge delay, taking into account the fact that the petitioner hails from an illiterate family, having no experience in litigation, the delay can be condoned showing some lenience to the petitioner. As a result, these petitions are allowed on condition that the petitioner shall pay a sum of Rs.5,000/- (Rupees Five Thousand) to the respondents 3 to 7 within a period of two weeks from the date of receipt of a copy of this order.

4. Registry is directed to make necessary corrections in the above appeal after showing the proof for payment

sd/-

02/04/2018

/ TRUE COPY /

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



1 THE PRINCIPAL SUBORDINATE JUDGE,  
TENKASI

2 THE DISTRICT MUNSIF,  
TENKASI

cmr  
JAM/05/04/2018/ CM-VR / SAR 1 /3p-3c

ORDER  
IN  
CMP (MD) Nos.2940 TO 2942 of 2016  
IN  
SA No.SR72489 of 2002  
Date :02/04/2018