



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

Friday, the Twenty Sixth day of October Two Thousand Eighteen

WEB COPY

PRESENT

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

CMP (MD) Nos.841 to 846 of 2017
in
A.S.No.709 of 2003

THE SPECIALTAHSILDAR AND LAND
ACQUISITION OFFICER,
PUDUKKOTTAI.

... PETITIONER/ APPELLANT
IN ALL THE PETITIONS

Vs

1 EZHUVAN (DIED)
2 PALANIYANDI (DIED)
3 THANGAVEL (DIED)
4 T.A.V.ABDUL RAHIM (DIED)

... RESPONDENTS 1 TO 4/
RESPONDENTS 1 TO 4
IN ALL THE PETITIONS

5 AARAYEE
6 ULAGAYEE
7 PALANIYANDI
8 VELLAYAN
9 THANDACHI
10 KARUPPIAH
11 MARUDHAI
12 SIGAPAYEE

... RESPONDENTS 5 TO 12/
PROPOSED RESPONDENTS 5 TO 12/
LRs OF THE DECEASED 1st RESPONDENT
IN ALL THE PETITIONS

13 CHINNAPILLAI
14 AYYADURAI
15 TMT.CHITRA
16 SAKTHI
17 TMT.MEENA

... RESPONDENTS 13 TO 17/
PROPOSED RESPONDENTS 13 TO 17/
LRs OF THE DECEASED 2nd RESPONDENT
IN ALL THE PETITIONS

18 EZHUVI
19 CHIDHAMBARAM
20 PANDIAN
21 SAMPATHKUMAR



22 SUDHA
23 ANAND

... RESPONDENT 18 TO 23.
PROPOSED RESPONDENTS 18 TO 23/
LRs OF THE DECEASED 3rd RESPONDENT
IN ALL THE PETITIONS

24 AAZHURE BEEVI
25 MOHAMED ISMAIL
26 MUMTAJ BEGAM
27 KAJA MOHIDEEN
28 A.HABEEBA BEGAM
29 A.SHAHUL HAMEED
30 A.SAHEERA BABU

... RESPONDENTS 24 TO 30/
PROPOSED RESPONDENTS 24 TO 30/
LRs OF THE DECEASED 4th RESPONDENT
IN ALL THE PETITIONS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to condone the delay 3052 of days in filing the petition to set aside the abatement caused due to the death of the 2nd respondent in AS.No.709 of 2003.

Prayer in CMP(MD) . 842/ 2017 :

To set aside the abatement caused due to the death of the 2nd respondent in AS.No.709 of 2003.

Prayer in CMP(MD) . 843/ 2017 :

To bring on record the proposed respondents 13 to 17 as legal representative the deceased 2nd respondent and rank them as respondents 13 to 17 in AS.No.709 of 2003.

Prayer in CMP(MD) . 844/ 2017 :

To condone the delay 5127 of days in filing the petition to set aside the abatement caused due to the death of the 1st respondent in AS.No.709 of 2003.

Prayer in CMP(MD) . 845/ 2017 :

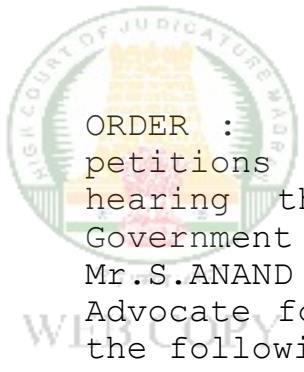
To set aside the abatement caused due to the death of the 1st respondent in AS.No.709 of 2003.

Prayer in CMP(MD) . 846/ 2017 :

To bring on record the proposed respondents 5 to 12 as legal representative the deceased 1st respondent and rank them as respondents 5 to 12 in A.No.709 of 2003.

PRAYER IN A.S.No.709 of 2003:

To present this memorandum of grounds of Regular appeal to this Hon`ble Court against the judgment and decree of the learned subordinate Judge of Pudukkottai in LAOP No.76 of 1995, dated 11th day of December 2001.



ORDER : These petitions coming on for orders upon perusing the petitions and the affidavit filed in support thereof and upon hearing the arguments of Mr.J.GUNNASEELAN MUTHIAH, Additional Government Pleader for the petitioner in all the petitions and of Mr.S.ANAND CHANDRASEKAR, Advocate for M/S.SARABHAUMAN ASSOCIATES, Advocate for the respondents in all the petitions, the court made the following order:-

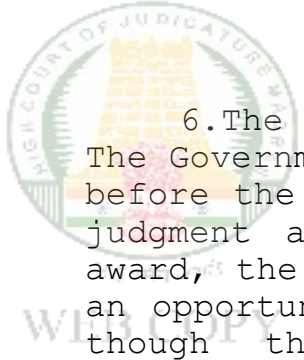
CMP(MD)Nos.841 to 843 of 2017 have been filed owing to the death of the 2nd respondent. However these applications have been filed with a delay of 3052 days in filing the petition to set aside the abatement, to set aside the abatement and to bring on record the legal representatives of the deceased 2nd respondent as respondents 13 to 17. Among the legal representatives the 14th respondent also died.

2.Similarly, CMP(MD)Nos.844 to 846 of 2017 have been filed since the 1st respondent also died. These applications have been filed to condone the delay of 5127 days in filing the petition to set aside the abatement caused on account of death of the first respondent; to set aside the abatement and to bring on record the legal representatives of the deceased first respondent as the respondents 5 to 12. Among them respondents 9, 10, 11 are died.

3.A memo had been filed by the learned Counsel for the respondents that insofar as the legal representatives of the deceased 2nd respondent, though the 14th respondent, who is the one of the legal representative died, the other legal representatives namely, the respondents 13, 15 to 17 would take care of his interest and also sufficient to represent the estate of the deceased 2nd respondent. Similarly in the memo, it is stated that in CMP(MD) Nos.844 to 846 of 2017 that though among the legal representatives 9 to 11 respondents died, the surviving legal representatives namely, 6, 7, 8 and 12 respondents would take care of the interest of the deceased 1st respondent and are also sufficient to represent the estate of the 1st respondent.

4.In the affidavit filed in support of petitions in CMP(MD) Nos.841 to 843 of 2017, the Special Tahsildar, Adi Dravidar Welfare, Pudukottai, had stated that he received a message only about 3 weeks prior to filing of the affidavit which was on 25.1.2017, regarding the death of the respondents. Thereafter, they obtained legal heirship certificate. This caused the delay and hence, he prayed the delay should be condoned.

5.In the affidavit filed in support of petitions in CMP(MD) Nos.844 to 846 of 2017, the Special Tahsildar, Adi Dravidar Welfare, Pudukottai, had also stated that the information regarding the death of the respondents was informed to him only about 15 days prior to the date of filing the affidavit. He prayed to condone the delay and stated that the delay is neither wanton nor wilful.



6.The first appeal arises out of land acquisition proceedings. The Government is the appellant. The respondents were the claimants before the Land Acquisition Tribunal. They have the benefit of the judgment and award passed by the Trial Court. Challenging the award, the Government filed the appeal. The respondents are given an opportunity to resist the appeal filed by the Government. Even though the respondents have unfortunately died, the legal representatives are necessary and have to participate in the judicial proceedings, so that a finality can be reached with regard to the award passed by the trial Court.

7.Viewed from these angles and also on hearing arguments from the learned Additional Government Pleader and the learned Counsel for the respondents, these applications are allowed.

8.The memo filed in USR No.5653 of 2018, dated 26.10.2018 is to form part of the records. The Registry is directed to carry out necessary amendments in the grounds of appeal with regard to the death of the respondents 1 & 2 and bring the legal representatives on record as proposed respondents 8 to 15. Among the legal representatives 9 to 11 and 14th respondents have died as recorded in the memo in USR No.5653 of 2018 which had been noted in the order today.

9.As the appeal is of the year 2003, post the appeal under the caption for final hearing on 13.11.2018.

sd/-
26/10/2018

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

TO
THE SUBORDINATE JUDGE, PUDUKKOTTAI.

COPY TO:

THE SECTION OFFICER,
JUDICIAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CMP(MD)Nos.841 to 846 of 2017
in A.S.No.709 of 2003
Date :26/10/2018

MS/VR-MMS/SAR-2/12.11.2018/4P.3C