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

Monday, the Sixteenth day of July Two Thousand Eighteen  
PRESENT

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

CMP (MD) Nos.5503 to 5505 of 2018

IN

SA (MD) No.66 of 2013

1 MURUGESAN (DIED)  
2 RAMASAMY  
3 GANESAN  
4 THANGARAJ  
5 DHANAM  
6 RAJENDRAN  
7 SAROJA  
8 M.SAROJA  
9 M.SUNDARAMOORTHY  
10 M.MANIKANDAN  
11 G.MAGUDEESWARI  
12 M.KALAISELVI

... PETITIONERS/ PETITIONERS  
IN ALL THE PETITIONS

Vs

1 THANGAMMAL  
2 VAIRAVAILINGAM  
3 RAJASEKAR  
4 SIVABALAN

... RESPONDENTS/ RESPONDENTS  
IN ALL THE PETITIONS

**PRAYER IN CMP (MD) No.5503 of 2018 IN SA (MD) No.66 of 2013:**

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to condone the delay of 1377 days in filing the petition to set aside the abatement of the SA.No.66 of 2013 on the file of this Hon'ble Court.

**Prayer in CMP (MD) . 5504/ 2018 IN SA (MD) No.66 of 2013:**

To set aside the abatement of the SA.No.66 of 2013 on the file of this Hon'ble Court.

**Prayer in CMP (MD) . 5505/ 2018 IN SA (MD) No.66 of 2013:**

To allowed the petitioners No.8 to 12 as Legal Heirs/ proposed Appellants No.1 to 5 in SA.No.66 of 2013 on the file of this Hon'ble Court.

**Prayer in SA (MD) . 66/ 2013 :**

Second appeal as against the judgment and decree passed in A.S.no.33 of 2011 on the file of learned Principal District Judge, Dindigul dated 16/07/2012 partly allowing the judgment and decree passed in O.S.No.267 of 2004 on the file of the Principal Sub Judge, Dindigul dated 08/06/2011.



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.S.RAJASEKAR, Advocate for the petitioner in all the petitions and of Mr.R.NANDAKUMAR, Advocate on behalf of the Respondents in all the petitions, the court made the following order:-

These applications are filed to condone the delay of 1377 days in filing the petition to set aside the abatement due to the death of the first appellant, to set aside the abatement and to bring on record the petitioners 8 to 12 as the legal representatives of the deceased first appellant.

2.Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents.

3.Though the delay is 1377 days, the petitioners have filed an affidavit in support of this petition explaining the delay. The reasons stated in the affidavit were disputed by the respondents in their counter affidavit.

4.It is true that in the affidavit filed in support of this petition, the petitioners stated that they could not inform the death of the first appellant to their Advocate within time, due to the deponent's personal problems. From the reason stated in the affidavit it appears that the reasons are given by the counsel without consulting the petitioner. However, this petition is only to condone the delay in filing the petition to set aside the abatement.

5.The Second Appeal in S.A.No.66 of 2013, is pending for disposal for more than 5 years. In majority of cases, the parties meet their counsels only when the matter is posted for final hearing and it is only at that stage the parties are advised to file applications, when the matter is posted for hearing.

6.This Court taking lenient view in these matters is inclined to allow these petitions on terms. Hence, these petitions are allowed on condition that the petitioners shall pay a sum of Rs.2,000/-(Rupees two thousand only) to the respondents within a period of three weeks from the date of receipt of a copy of this order, failing which, these petitions stand dismissed automatically, without any further reference to this Court.

7.The Registry is directed to carry out necessary amendment in the cause title.

sd/-  
16/07/2018

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



TO

1. THE PRINCIPAL DISTRICT JUDGE,  
DINDIGUL.

2. THE PRINCIPAL SUBORDINATE JUDGE,  
DINDIGUL.

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COPY TO:

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

ORDER IN  
CMP(MD) Nos.5503 to 5505 of 2018  
IN SA(MD) No.66 of 2013  
Date :16/07/2018

**MS/VR/SAR-2/16.08.2018/3P.4C**