

Application No.5384 of 2019 in
C.S.No.511 of 2008

Krishnan Ramasamy, J.,

This application has been filed to condone the delay of 2110 days in filing the application to set aside the abatement of the suit as against the deceased third defendant.

2. None appeared on behalf of the respondents 1 to 3/Defendants 1 to 3. Further, the respondents 1 to 3 have not chosen to file the counter affidavit as ordered by this Court dated 01.08.2019.

3. The learned counsel for the applicant would submit that earlier the applications for condonation of delay, to set aside abatement and to bring the L/R's of the deceased third defendant on record were filed as early as in the year 2014. But, the same were returned by the Registry for rectification of certain errors and after rectifying the same, they were represented and in the process there was a delay of 293 days, which was condoned on 07.02.2019. Thereafter, the applicant/plaintiff filed Application Nos.3130 of 2019 to 3132 of 2019, seeking to condone the delay of 238 days in filing the application to set aside the abatement and to bring the Legal Representatives of the deceased third defendant on record. When the matter was listed on 27.06.2019, the defendants 1 to 2 filed a Memo indicating the details of the 3 legal heirs of the deceased. It is further stated that on receiving the Memo, they came to know that the Application No.3132

KRISHNAN RAMASAMY, J

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of 2019 filed to bring on record one Mrs.Akiriya Indira as legal representative of third respondent/defendant is incorrect and hence when the matter was listed on 11.07.2019, these applications have been withdrawn by the applicant/plaintiff with liberty to file fresh application and in the process there was a delay of 2110 days. He would further submit that the delay is neither willful nor wanton and hence prays this Court to allow this application.

5.Heard the learned counsel for the Applicant/Plaintiff. Perused the materials on record.

6. Being satisfied with the reasons stated in the affidavit filed in support of this application and also considering the submissions made by the learned counsel for the applicant/plaintiff, this application is allowed and the delay is condoned.

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08.08.2019
(1/4)

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