

**A.No.9415 of 2019
in
C.S.No.859 2016**

SENTHILKUMAR RAMAMOORTHY, J.

This application is filed to condone the delay of 436 days in filing the application to set aside the abatement caused by the death of the third defendant in C.S.No.859 of 2016.

2. I heard the learned counsel for the applicants/-plaintiffs and the learned counsel for Defendants 3 and 5.

3. The learned counsel for the applicants submitted that the counsel for the third defendant filed a memo on 24.10.2019 stating that the third defendant had expired during the pendency of the suit. He further submitted that it is only upon receipt of the said memo that the applicants/plaintiffs became aware about the death. Therefore, he submitted that the delay of 436 days occurred and that the said delay is liable to be excused.

4. Upon considering the submissions and on examining the affidavit filed in support of the application, I am of the view that the

SENTHILKUMAR RAMAMOORTHY,J

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applicant has made out a cause to condone the delay of 436 days in filing the application to set aside the abatement. Accordingly, this application is allowed and the delay is condoned.

5. The learned counsel for the fifth defendant submitted that the fifth defendant also expired during the pendency of the suit. Therefore, the learned counsel for the fifth defendant is directed to file a Memo, specifying the date of death of the fifth defendant, so as to enable the plaintiffs to file an appropriate application for bringing the legal heirs of the fifth defendant on record.

05.12.2019

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