



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

Wednesday, the Twenty Fourth day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CMP(MD) No.4438 of 2019
IN SA(MD) No.832 of 2009

1 ARUMUGA ASARI

2 SANTHANAMMAL

... PETITIONERS/ APPELLANTS

Vs

N.K.RAJA (DIED)

... SOLE RESPONDENT

1 FATHIMA JOHN

2 SANDHU KHAN

3 HAKKIM

4 MARIAM BIBI

... RESPONDENTS/ PROPOSED LRs
OF DECEASED SOLE RESPONDENT

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 1517 days in filing the set aside abatement caused due to the death of the sole respondent namely N.K.Raja in the above second appeal and thus render justice.

PRAYER IN SA(MD) No.832 of 2009:

To prefer the memorandum of second appeal against the judgment and decree dated 03.06.2009 made in A.S.No.44 of 2005 on the file of Additional Sub Judge, Dindigul reversing well considered judgment and decree dated 30.11.2004 made in O.S.No.189 of 1999 on the file of 2nd Additional District Munsif, Dindigul.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.R.SURIYANARAYANAN, Advocate for the petitioners and of Mr.S.A.AJMALKHAN, Advocate for on behalf of the Respondents, the court made the following order:-

On the side of the appellants, it is stated that the respondent counsel filed memo only on 14.03.2019 regarding the death of the sole respondent and this leads to delay in taking steps.

2.On the side of the respondent, it is stated that the date of death of sole respondent is 15.03.2014. The appellant has wrongly mentioned the date as 15.09.2014 and the calculation of the delay is wrong.



3. In the above circumstances, this petition is dismissed with liberty to file fresh petition on the same cause of action after carrying out the necessary amendments.

sd/-

24/07/2019

/ TRUE COPY /

WEB COPY

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

TO

1 THE ADDITIONAL SUBORDINATE JUDGE,
DINDIGUL

2 THE 2ND ADDITIONAL DISTRICT MUNSIF,
DINDIGUL.

ORDER

IN

CMP (MD) No.4438 of 2019

IN

SA (MD) No.832 of 2009

Date : 24/07/2019

MS/PN/SAR-4/30.07.2019/2P.3C