



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

Tuesday, the Twenty Second day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

**C.M.P (MD) Nos.6774 to 6776 and 7118 to 7120 of 2018
in
S.A.Nos.1073 and 1074 of 2004**

C.M.P (MD) Nos.6774 to 6776 in S.A.No.1073 of 2004:

1 SUNDARAYYA MUDALIAR (DIED)	... 1 st PETITIONER/ 1 st APPELLANT
2 SHANMUGASUNDARAM	... 2 nd PETITIONER/ 2 nd APPELLANT
3 PALANICHAMY	... 3 rd PETITIONER/ PROPOSED 3 rd APPELLANT & ONE OF THE LEGAL HEIRS OF DECEASED 1 st APPELLANT

Vs

1 GURUSAMY KONAR (DEAD)	... 1 st RESPONDENT/ SOLE RESPONDENT
2 CHELLAMUTHAIAH THEVAR	
3 MARIAPPAN	... RESPONDENTS 2 AND 3/RESPONDENTS 2 AND 3
4 GOMATHI	
5 JAYAKUMAR	
6 PANNAYIRAM	
7 PAPPA	... RESPONDENTS 3 TO 7/ PROPOSED RESPONDENTS 3 TO 7 AND LEGAL HEIRS OF DECEASED 1 st RESPONDENT

Prayer in CMP(MD) . 6774/ 2018 in S.A.No.1073 of 2004:

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to pass suitable orders to condone the delay of 1465 days in the matter of filing petition to set aside the abatement caused due to the death of the deceased 1st respondent/1st respondent and pass suitable or further orders as this Honourable court may deem fit and proper in the circumstances of this case and thus render justice.

Prayer in CMP(MD) . 6775/ 2018 in S.A.No.1073 of 2004:

Pleaded to pass suitable orders to set aside the abatement caused due to the death of the 1st respondent/1st respondent in the



second appeal and pass such other or/ and further orders as this Honourable Court may deem fit and proper in the circumstances of this case and thus render justice.

Prayer in CMP(MD) . 6776/ 2018 in S.A.No.1073 of 2004:

Pleaded to record respondents 4 to 7 herein as the legal representatives of the deceased 1st respondent and implead the respondents 4 to 7 herein as respondents 4 to 7 in the second appeal and pass such other or/and further orders as this Honourable Court may deem fit and proper in the circumstances of this case and thus render justice.

PRAYER in S.A.No.1073 of 2004:

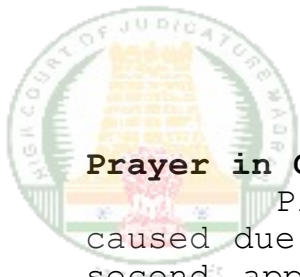
To set aside the judgment and decree dated 22nd August 2003 passed by the Subordinate Judge, Sankarankovil in A.S.No.45 of 2003 confirming the judgment and decree dated 5th March 2003 passed by the District Munsiff cum Judicial Magistrate, Sivagiri in O.S No.102 of 1998.

C.M.P (MD) Nos.7118 to 7120 in S.A.No.1073 of 2004:

1 SUNDARAYYA MUDALIAR (DIED)	... 1 st PETITIONER/ 1 st APPELLANT
2 SHANMUGASUNDARAM	... 2 nd PETITIONER/ 2 nd APPELLANT
3 PALANICHAMY	... 3 rd PETITIONER/ PROPOSED 3 rd APPELLANT & ONE OF THE LEGAL HEIRS OF DECEASED 1 st APPELLANT
Vs	
1 GURUSAMY KONAR (DEAD)	... 1 st RESPONDENT/ SOLE RESPONDENT
2 MARIAPPAN	... 2 nd RESPONDENT/ PROPOSED 2 nd RESPONDENT ONE OF THE LEGAL HEIRS OF DECEASED 1 st APPELLANT
3 GOMATHI	
4 JAYAKUMAR	
5 PANNAYIRAM	
6 PAPPA	... RESPONDENTS 3 TO 6/ PROPOSED RESPONDENTS 3 TO 6 AND LEGAL HEIRS OF DECEASED 1 st RESPONDENT

Prayer in CMP(MD) . 7118/ 2018 in S.A.No.1073 of 2004:

Pleaded to pass suitable orders to condone the delay of 1615 days in the matter of filing petition to set aside the abatement caused due to the death of the deceased 1st respondent/1st respondent and pass suitable order further orders as this Honourable Court may deem fit and proper in the circumstances of this case and thus render justice.

**Prayer in CMP(MD) . 7119/ 2018 in S.A.No.1073 of 2004:**

Pleaded to pass suitable orders to set aside the abatement caused due to the death of the 1st respondent/1st respondent in the second appeal and pass such other or/and further orders as this Honourable Court may deem fit and proper in the circumstances of this case and thus render justice.

Prayer in CMP(MD) . 7120/ 2018 in S.A.No.1073 of 2004:

Pleaded to record respondents 3 to 6 herein as the legal representatives of the deceased 1st respondent and bring on record the respondents 3 to 6 herein as respondents 3 to 6 in the second appeal and pass such other or/and further orders as this Honourable Court

PRAYER in S.A.No.1074 of 2004:

To set aside the judgment and decree dated 22nd August 2003 passed by the Subordinate Judge, Sankarankovil in A.S.No.46 of 2003 confirming the judgment and decree dated 5th March 2003 passed by the District Munsiff cum Judicial Magistrate, Sivagiri in O.S No.110 of 1998.

ORDER : These petitions coming on for orders upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of Mr.S.PARTHASARATHY, Advocate for the petitioners in all the petitions and of Mr.G.VENUGOPAL, Advocate for R4 to R7 in CMP(MD)Nos.6774 to 6776 of 2018 in SA(MD)No.1073 of 2004 and R3 to R6 in CMP(MD)Nos.7118 to 7120 of 2018 in SA(MD)No.1074 of 2004, the court made the following order:-

This Court by an order dated 08/01/2019, allowed these petitions on payment of cost of Rs.12,000/- to the credit of the Chief Justice Relief Fund(Payable in Accounts Section of the High Court Registry) on or before 21/01/19.

However, the order of this Court has not complied with by the petitioners.

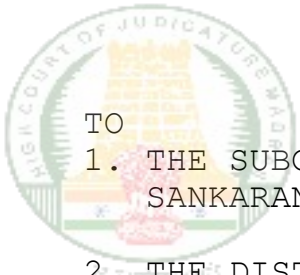
Hence, these petitions are dismissed.

Post the main case after two weeks.

sd/-
22/01/2019

/ TRUE COPY /

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



TO

1. THE SUBORDINATE JUDGE,
SANKARANKOVIL.

2. THE DISTRICT MUNSIFF CUM JUDICIAL MAGISTRATE,
SIVAGIRI.

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COPY TO:

THE SECTION OFFICER, (CHIEF JUSTICE RELIEF FUND),
ACCOUNTS SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

C.M.P (MD) Nos.6774 to 6776 and
7118 to 7120 of 2018 in
S.A.Nos.1073 and 1074 of 2004

Date :22/01/2019

AE/PN/SAR1/25.01.2019/4P/4C