

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 23RD DAY OF JANUARY 2020

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

A.Nos.191, 192 and 193 of 2020

IN

C.S.NO.161 OF 2014

Mrs.V.Suriyakumari,
No.128, Alandur Road,
Saidapet,
Chennai-15.

...Plaintiff

-Versus-

1.V.Rangarajan
Flat S1, 2nd Floor,
Royal Enclave Apartments,
New No.2, Old No.52, Thannappa Street,
Triplicane, Chennai-5.

2.V.Uma Asokan
Flat S1, 2nd Floor,
Royal Enclave Apartments,
New No.2, Old No.52, Thannappa Street,
Triplicane, Chennai-5.

3.AKS Housing Development Company Pvt. Ltd.,
Rep. by its Managing Director,
Old No.3A, New No.11,
B.N.Raod, T.Nagar,
Chennai-17.

...Defendants

A.No.191 AND 192 AND 193 of 2020:

AKS Housing Development Company Pvt. Ltd.,
Rep. by its Managing Director,
Old No.3A, New No.11,
B.N.Raod, T.Nagar,
Chennai-17.

..Applicant/Applicant/3rd Defendant
IN ALL APPLICAITONS

-vs-

1. Mrs.V.Suriyakumari (died)

2.V.Rangarajan
Flat S1, 2nd Floor,
Royal Enclave Apartments,
New No.2, Old No.52, Thannappa Street,
Triplicane, Chennai-5.

3.V.Uma Asokan
Flat No.S1, 2nd Floor,
Royal Enclave Apartments,
New No.2, Old No.52,
Thannappa Street,
Triplicane, Chennai-5.

..Respondents 2 and 3 /
Respondents 2 and 3/
Defendants 1 and 2
IN ALL APPLICATIONS

4. M.V.RAJKUMAR
S/o.Late Venkatasubramaniam

5. M.V.SASIKUMAR
S/o.Late Venkatasubramaniam

6. M.V.KALYANAKUMAR
S/o.Late Venkatasubramaniam

7. M.V.VIJAYALAKSHMI
D/o.Late Venkatasubramaniam

8. M.V.JAYAMALINI
D/o.Late Venkatasubramaniam
4 to 8 residing at NO.128,
Alandur Road, Chennai 600 015.

..Respondents 4 to 8/
Proposed Respondents 4 to 8/
Proposed Plaintiff's 2 to 6
IN ALL APPLICATIONS

A.No.191 of 2020:

This application praying that this Hon'ble court be pleased to condone the delay of 265 days in filing this petition to set aside the abatement caused due to the death of the 1st respondent/Plaintiff V.Suriyakumar in the above A.NO.6078 of 2018.

A.No.192 of 2020:

This application praying that this Hon'ble court be pleased to set aside the abatement caused due to the death of the 1st respondent/plaintiff V.Suriyakumari in the above A.No.6078 of 2018.

A.No.193 of 2020:

This application praying that this Hon'ble court be pleased to bring the Respondents 4 to 8 on record as the legal representatives of the deceased 1st respondent/plaintiff V.Suriyakumari and rank them as the respondents 4 to 8 in the above A.No.6078 of 2018.

These Original applications coming on this day before this court for hearing the court made the following order:-

These applications are filed to condone the delay of 265 days in filing this application to set aside the abatement caused due to the death of the first respondent/plaintiff and to set aside the abatement on the above account.

2. I heard the learned Senior Counsel for the applicant and the learned counsel for the first respondent. The learned Senior Counsel for the applicant submitted that an application was filed to condone the delay of 1140 days in setting aside the exparte decree dated 24.07.2015 while the application was pending, he submitted that the first respondent/plaintiff died on 16.01.2019 leaving behind the legal representatives as per details set out in Paragraph No.3 of affidavit. He further submitted that a Memo was filed with the above mentioned particulars by the learned counsel for the first respondent/plaintiff on 02.01.2020 and that is how the applicant become aware about the death of the first respondent and the abatement as a result thereof. Therefore, he submitted that these applications are liable to be allowed. The learned counsel for the first respondent submitted that notice should be issued to the legal representatives in the impleading application.

3. Upon considering the submissions of the respective

Senior Counsel/Counsel, I find that the applicant has made out sufficient cause on account of the fact that the death of the first respondent/plaintiff was brought to the knowledge of the applicant only on 02.01.2020. Accordingly, both these applications are allowed by condoning the delay of 265 days in filing this petition and setting aside the abatement caused due to the death of the first respondent/plaintiff V.Suriyakumari in Application No.6078 of 2018. Issue notice in Application No.193 of 2020 to respondents four to eight returnable by 06.02.2020. Private notice is also permitted. Post the matter on 06.02.2020.

Sd/.S.K.R.J.

23.01.2020

//Certified to be a true copy//

Dated this the day of 2020.

SU/03.02.2020

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

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