

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 09TH DAY OF MARCH 2020

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

A.Nos.9888 and 9889 of 2019

in

O.P.No.815 of 2014

In the matter of Indian Sucession Act
XXXIX of 1925 and

In the matter of the Last
Will and Testament of
G.Alagiasingam(deceased)

1. A.RANGARAJAN,
S/O.G.ALAGIASINGAM,
NO.7, T.P.KOIL STREET,
TRIPPLICANE, CHENNAI-5

2. A.PARTHASARATHY,
S/O.G.ALAGIASINGAM,
NO.7, T.P.KOIL STREET,
TRIPPLICANE, CHENNAI-5

.Petitioners

-VS-

1.R.RAJALAKSHMI,
W/O.DR.RADHAKRISHNAN,
NO.2-007, P.WHITE HOUSE
APARTMENTS. VI MAIN,
15TH CROSS, R.T.NAGAR,
BANGALORE.

2. A.CHOODAMANI,
W/O.SRINIVASAN,
NO.7.T.P.KOIL ST,
TRIPPLICANE, CHENNAI-5

3. A.KANNAMMA
W/O.R.SRINIVASA RAGHAVAN,
NO.996, TRICHY ROAD,
RAMANADAPURAM,
COIMBATORE.

..RESPONDENTS

A.Nos.9888 and 9889 of 2019:

1. A.RANGARAJAN,
S/O.G.ALAGIASINGAM,
NO.7, T.P.KOIL STREET,
TRIPPLICANE, CHENNAI-5

2. A.PARTHASARATHY,
S/O.G.ALAGIASINGAM,
NO.7, T.P.KOIL STREET,
TRIPPLICANE, CHENNAI-5

..Applicants/Petitioners
in both applications

-VS-

1.R.RAJALAKSHMI,
W/O.DR.RADHAKRISHNAN,
NO.2-007, P.WHITE HOUSE APARTMENTS. VI MAIN,
15TH CROSS, R.T.NAGAR,
BANGALORE.

A.CHOODAMANI,(died)

2. A.KANNAMMA
W/O.R.SRINIVASA RAGHAVAN,
NO.996, TRICHY ROAD,
RAMANADAPURAM,
COIMBATORE.

..RESPONDENTS/RESPONDENTS
in both applications

3. KANNAN SRINIVASAN,
S/O.SRINIVASAN,
NO.20765, BANK WAY,

PHOTOMAC FALLS,
V.A.20165, U.S.A.

..PROPOSED RESPONDENT
(LR of 2nd Respondent in O.P.)
in both applications

A.No.9888 of 2019:

This Application praying that this Hon'ble Court be pleased to set aside the abatement of the O.P.against the deceased 2nd Respondent.

A.No.9889 of 2019:

This Application praying that this Hon'ble Court be pleased to bring on record 3rd Respondent, who is the Legal Representative of the deceased 2nd Respondent in O.P.

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

These applications are filed to set aside the abatement of the Original Petition against the deceased 2nd respondent and to bring on record the 3rd respondent, who is the legal heir of the deceased 2nd respondent as the 3rd respondent in the OP.

2. I heard the learned counsel for the Applicants and the learned counsel for the Respondents.

3. By earlier Order dated 17.12.2019, the delay of 1564 days in filing the application to set aside the abatement was allowed. In the common

that the delay occurred for two reasons, namely, the non cooperation of the proposed respondent and the illness of the second applicant.

4. The learned counsel for the proposed respondent submits that the allegation with regard to the non-cooperation of the proposed respondent is false. Subject to this objection, the proposed respondent has no objection either to the abatement being set aside or to the impleadment of the proposed respondent.

5. Upon considering the submissions of the learned counsel for the respective parties and on examining the affidavit filed in support of these Applications, I find that the applicants have made out sufficient cause to set aside the abatement of the OP against the deceased 2nd respondent and also to implead the 3rd respondent in A.No.9889 of 2019 as the respondent in the O.P.

6. Accordingly, these Applications are allowed with the following directions:

(i). The abatement of the O.P. against the deceased 2nd respondent is hereby set aside.

(ii). The 3rd respondent is impleaded in OP No.815 of 2014 as the legal representative of the deceased 2nd respondent.

7. The learned counsel for the petitioner shall carry out the consequential amendment within a period of two weeks from the date of

receipt of a copy of this order and serve a copy of the amended petition on the respondent within a week thereafter.

Sd/.S.K.R.J.
09.03.2020

//Certified to be a true copy//

Dated this the day of 2020

SU/18.03.2020

COURT OFFICER(O.S.)

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



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