

C.M.P.No.16297 of 2018
in
A.S.No.1022 of 1993

Dr.G.JAYACHANDRAN,J.

(The case has been heard through video conferencing)

The suit for partition has been partly allowed. Being aggrieved regarding the disallowed portion, the first appeal has been preferred by the plaintiff. Pending first appeal, filed in the year 1993, the sole respondent/defendant died. Hence the appellant has taken out the petitions in C.M.P.Nos.924 to 926 of 2008 to condone delay of 181 days in filing the petitions to set aside the abatement caused due to the death of sole respondent and to bring legal representatives of the deceased sole respondent on record.

2. While pursuing these three petitions, the appellant has failed to serve notice to the proposed 4th respondent, leading to dismissal of his petition. In so far as the proposed 4th respondent Saroja, further petition was taken out by the appellant to condone delay to set aside the dismissal order dated 09.04.2010 in C.M.P.Nos.924 to 926 of 2008.

3. From the records, this Court finds that the deceased Jambulingam Servai has left behind his wife Meenakshi, Son Marimuthu and daughter Saroja. All the proposed respondents were served through private notice and proof of service was filed. Marimuthu entered appearance through his counsel Mr.S.Giridharan. Saroja entered appearance through her counsel Mr.Rajini.

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4. Today when the matter is came up for hearing, the learned counsel appearing for 3rd respondent Marimuthu is present through video conferencing. The matter being the suit for partition, the petition in C.M.P.No.16297 of 2018 to set aside the dismissal order dated 09.04.2010 in C.M.P.Nos.924 to 926 of 2008 in respect of the proposed 4th respondent Saroja is allowed.

5. Post the matter for final disposal on 06.01.2021

04.01.2021

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Note:The Registry is directed to amend the cause title by including the 4th respondent Saroja.

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