

C.M.P.Nos.22764, 22766 & 22770 of 2018

in

S.A.No.209 of 2008

P.T.ASHA, J.,

C.M.P.No.22764 of 2018 is filed to condone the delay of 1249 days in filing the petition to set aside the abatement caused due to the death of the 3rd respondent, Masilamani Gramani in the above Second Appeal.

2. C.M.P.No.22766 of 2018 is filed to set aside the abatement caused due to the death of the 3rd respondent, Masilamani Gramani.

3. C.M.P.No.22770 of 2018 is filed to bring on record the proposed 10th respondent as the legal heir of the deceased 3rd respondent, Masilamani Gramani and rank him as 10th respondent in

the above Second Appeal.

4. In the affidavit filed in support of the said petitions the appellant / petitioner has stated as follows:

“I have filed an application to bring on record the 10th respondent as legal heir of 3rd respondent who died on 06.02.2015 within time, bearing a S.R.No.17834 of 2015. And the same was returned with some defects and it was also misplaced in the office of my counsel. Though the application were filed on time due to the fact that the returned application remains untraceable despite our efforts a fresh application is being filed. That due to the above reasons there has occasioned delay. Hence there is a delay of 1249 days in filing the application to set aside abatement caused due to the death of the 3rd respondent.”

5. A counter has been filed by the proposed 10th respondent, the legal representative of the deceased 3rd respondent who was sought to be impleaded as the legal representative of the deceased 3rd

respondent. In the said counter affidavit, the deponent would submit that, apart from himself there are others who are the legal representatives of Masilamani Gramani and they have to be brought on record. The 10th respondent has also enclosed the details of the legal heirs as well as the death certificate of the deceased 3rd respondent in the typed set of papers filed along with the counter affidavit.

6. Considering the fact that the petition had been filed in time but due to the reasons beyond the control of the petitioner was not numbered in time, I am of the view that the petitioner has shown sufficient cause for condoning the delay in filing their petition to set aside the abatement caused due to the death of the 3rd respondent and to bring on record the legal representative of the deceased 3rd respondent as the 10th respondent in the above Second Appeal. Though the petition is filed to bring on record the legal representative

as the 10th respondent in the above Second Appeal, considering the fact that there are only 6 respondents, the legal representative is impleaded as the 7th respondent in the above Second Appeal. Accordingly, the above petitions are ordered.

7. The appellant shall take necessary steps to implead the other legal representatives of the deceased 3rd respondent by 28.04.2021.

8. The Registry shall carry out necessary amendment and post the matter on 02.06.2021.

19.04.2021

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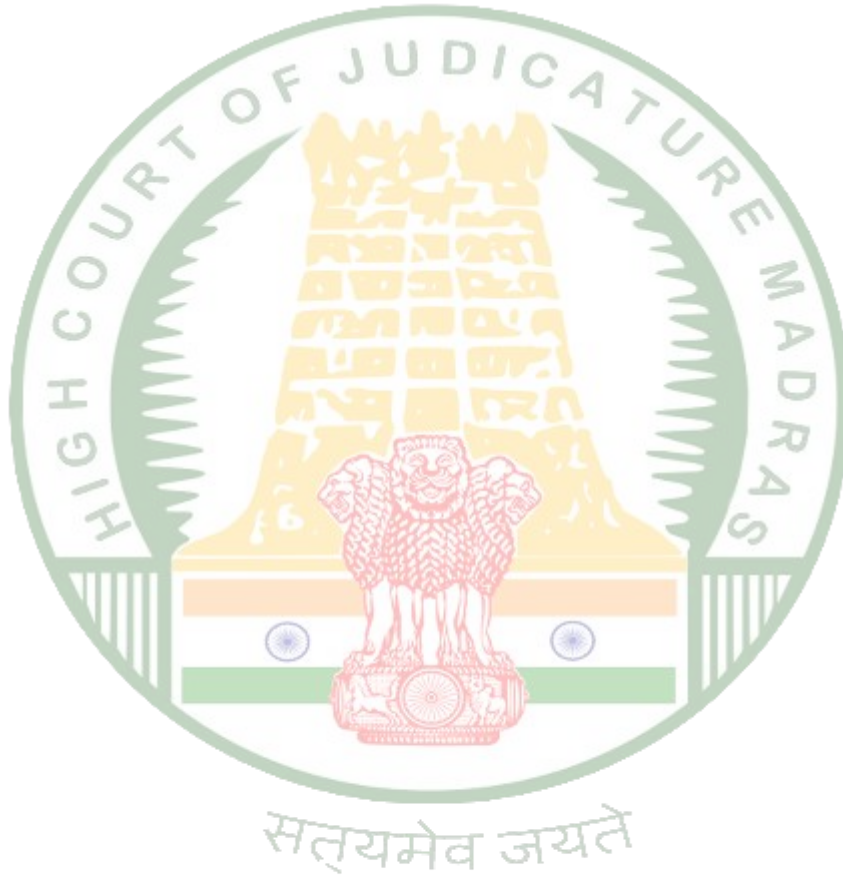
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