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

Friday, the Twenty Fourth day of September Two Thousand and
Twenty One

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA
C.M.P(MD)Nos.5680, 5681 & 5683 of 2020

in

S.A.(MD)No.12 of 2017

P.RAMANATHAN

... PETITIONER/APPELLANT
IN ALL CASES

Vs

1 BACKIYAM (DIED)
2 ALAGESHWARI
3 SUNDARAM

...RESPONDENTS/ RESPONDENTS
IN ALL CASES

4 MURUGAN
5 VENNILA
6 VADIVEL

... PROPOSED RESPONDENT 4 TO 6/
1ST RESPONDENT'S LEGAL HEIRS
IN ALL CASES

PRAYER IN C.M.P(MD)No.5680 of 2020

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to pass order to Condone the Delay of 664 days in filing the abatement Petition in the Legal Representative Petition in Second Appeal No.12 of 2017.

PRAYER IN C.M.P(MD)No.5681 of 2020

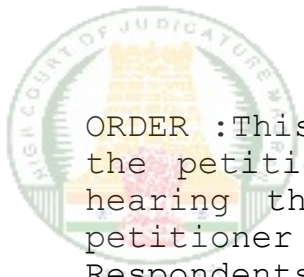
Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to pass order to set aside the abatement caused due to the death of the deceased 1st respondent in Second Appeal NO.12 of 2017.

PRAYER IN C.M.P(MD)No.5683 of 2020

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to permit the petitioner bring on record the proposed Respondent Nos. 4 to 6 as the legal heirs of the deceased 1st Respondent in Second Appeal No.12 of 2017.

PRAYER IN S.A. (MD)No.12 of 2017:

Appeal filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to set aside the Judgment and Decree in A.S.No.42 of 2011 passed by the Subordinate Court, Pudukottai, Pudukottai District, dated 11.10.2013 confirming the decree and judgment in O.S.No.152 of 2007 passed by the District Munsif Court, Aranthangi dated 25.02.2011 by allowing this Second Appeal with costs throughout.



ORDER :This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.A. HAJA MOHIDEEN, Advocate for the petitioner and of MR.K.VAMANAN, Advocate on behalf of the Respondents 2, 3 and 5 the court made the following order:-

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These applications in CMP(MD)Nos.5680, 5681 & 5683 of 2020 have been filed to condone the delay of 664 days in filing the application to set aside the abatement caused due to the death of the first respondent namely, Backiyam; to set aside the abatement caused due to the death of the first respondent and to bring on record, the legal representatives of the deceased first respondent, the proposed respondents 4 to 6.

2.Heard Mr.A.Haja Mohideen, learned counsel for the petitioner and Mr.Vamanan, learned counsel for respondents 2, 3 and 5.

3.The first respondent is Backiyam and she is said to have died and consequently, these applications have been filed for the reliefs as stated above. The Second Appeal arises out of the suit, which has been filed, seeking declaration and for permanent injunction. In order to give effective justice in the second appeal, it is just and necessary that her legal representatives should be brought on record in this Second Appeal. Consequently, these applications are allowed on condition that the Petitioner pays a sum of Rs.2,000/- (Rupees Two Thousand) to the Advocates Welfare Fund, Madurai Bench of Madras High Court, bearing Account No.7087208431 in Indian Bank, High Court Branch, Madurai, towards costs, within a period of two weeks from the date of receipt of a copy of this order, failing which, these petitions shall stand automatically dismissed, without further reference to this Court.

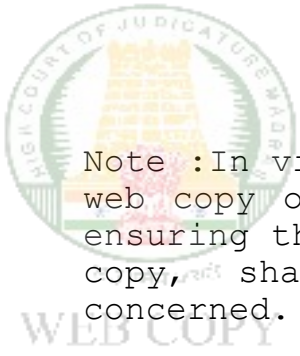
4. The office is directed to record the death of the first respondent Backiyam and to bring on record, her legal representatives, the proposed respondents 4 to 6.

5. As per records, notice taken on respondents 4 and 6 had been returned stating that they are employed in Dubai. However, the bailiff had intimated the same, to the wife of respondents 4 and 6, hence, the notice deemed to be served on respondents 4 and 6.

Sd/-
24/09/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE SUBORDINATE JUDGE, PUDUKOTTAI,
PUDUKOTTAI DISTRICT.
2. THE DISTRICT MUNSIF, ARANTHANGI.

COPY TO

THE OFFICER INCHARGE,
ADVOCATES WELFARE FUND,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
C.M.P (MD) Nos.5680, 5681 & 5683 of 2020
in
S.A. (MD) No.12 of 2017
Date :24/09/2021

VB/VR/SAR.I/04.10.2021/3P/4C