



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

Monday, the Sixth day of December Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice V.BHAVANI SUBBAROYAN

CMP(MD) No.7467, 7469 & 7470 of 2021
in
SA(MD)SR.No. 44203 of 2008

NALINA THARA

... PETITIONER/APPELLANT
IN ALL THE PETITIONS

Vs

K.THANDAPANI (DIED)

...RESPONDENT/RESPONDNET
IN ALL THE PETITIONS

1 BALACHANDAR,

2 PREMKUMAR

... RESPONDENTS/PROPOSED RESPONDENTS
IN ALL THE PETITIONS

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to condone the delay of 91 days to set aside the abatement caused due to the death of the sole respondent (Thandapani) in the Second Appeal against judgment and decree dated 04.07.2008 made in AS No.279 of 2006 on the file of the Principal Subordinate Court, Tirunelveli confirming the judgment and decree dated 01.09.2006 made in OS No.1276 of 2004 on the file of the 1st Additional District Munsif Court, Tirunelveli.

Prayer in CMP(MD) . 7469/ 2021 :

To set aside the abatement caused due to the death of the sole respondent (Thandapani) in the Second Appeal against judgment and decree dated 04.07.2008 made in AS No.279 of 2006 on the file of the Principal Subordinate Court, Tirunelveli confirming the judgment and decree dated 01.09.2006 made in OS No.1276 of 2004 on the file of the Ist Additional District Munsif Court, Tirunelveli.

Prayer in CMP(MD) . 7470/ 2021 :

Pleased to bring on record the following persons viz, Balachandar (Son) and Premkumar (son) as the legal heirs of the deceased Thandapani and implead the proposed 2nd and 3rd respondents as 2nd and 3rd respondents in the above Second appeal against judgment and decree dated 04.07.2008 made in AS No.279 of 2006 on



the file of the Principal Subordinate Court, Tirunelveli confirming the judgment and decree dated 01.09.2006 made in OS No.1276 of 2004 on the file of the Ist Additional District Munsif Court, Tirunelveli.

Prayer in SA(MD)SR.No.44203 of 2008:

To set aside the Judgment and Decree dated 04.07.2008 made in A.S.No. 279 of 2006 on the file of the Principal Subordinate Court, Tirunelveli confirming the Judgment and decree dated 01/09/2006 made in O.S.No. 1276 of 2004 on the file of the 1st Additional District Munsif Court, Tirunelveli.

ORDER : These petitions coming up for orders on this day, upon perusing the petitions and the affidavit filed in support thereof and upon hearing the arguments of MR.S.M.S.JOHNNY BASHA, Advocate for the petitioner in all the petitions and of MR.G.THALAIMUTHARASU, Advocate for the 2nd Respondent in all the petitions, the court made the following order:-

These applications in C.M.P(MD)Nos.7467, 7469 & 7470 of 2021 have been filed to condone the delay of 91 days in filing the application to set aside the abatement caused due to the death of the sole respondent; to set aside the abatement caused due to the death of the sole in the above Second Appeal and to bring on record the proposed respondents 2 and 3 herein as the legal representatives of the deceased sole in the above Second Appeal and implead them as respondents 2 and 3.

2.Heard Mr.S.M.S.Johnny Basha, learned counsel for the petitioner and Mr.G.Thalaimutharasu, learned counsel for the second respondent.

3.The sole respondent in the above Second Appeal is K.Thandapani and he 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 for declaration and permanent injunction. In order to give effective justice in the Second Appeal, it is just and necessary that his legal representatives should be brought on record in this Second Appeal. Consequently, these applications may be allowed on payment of costs.

4.In view of the above, these Petitions are allowed however on condition that the Petitioner pay a sum of Rs.1,000/- (Rupees One Thousand only) to the Advocate Clerk's Welfare Association, Madurai Bench of Madras High Court, bearing Account No.496039124 in Indian Bank, High Court Branch, Madurai, towards costs, within a period of one week 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.



5. The office is directed to record the death of the sole respondent K.Thandapani and to bring on record, his legal representatives, the proposed respondents 2 and 3.

sd/-

06/12/2021

WEB COPY

/ TRUE COPY /

/ /2021

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

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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 PRINCIPAL SUBORDINATE JUDGE,
TIRUNELVELI.
- 2 THE I ADDITIONAL DISTRICT MUNSIF,
TIRUNELVELI.

COPY TO

THE OFFICER INCHARGE,
ADVOCATE CLERK'S WELFARE ASSOCIATION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CMP (MD) No.7467, 7469 &
7470 of 2021

in

SA (MD) SR.No. 44203 of 2008

Date :06/12/2021

PKP/JM/SAR-4/09.12.2021/3P/4C