



C.M.P.Nos.730, 731 & 732 of 2013

and

C.M.P.Nos. 733, 734 & 735 of 2013

in

S.A.No.1140 of 2003

C.V.KARTHIKEYAN,J.

The first three applications have been filed consequent to the death of the first appellant and seeking to condone the delay in filing the application to set aside the abatement and to set aside the abatement and to bring on record the legal representatives as appellants 2 to 5.

2.In the affidavit filed in support of the petition, it had been stated that the entire proceedings before the Courts below as well as before this Court were looked after only by the petitioner's father and the present petitioners, who are sought to be brought on record, are illiterate not acquainted with the Court proceedings and are not aware of the issues of limitation and pendency of the second appeal. It was stated that the first appellant was very old, aged about 85 years and suffering from many ailments. The petitioners did not know about the present position of the second appeal. It is stated that they should be made as parties to the appeal after condoning the delay in setting aside the abatement.



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3.CMP.Nos.733 to 735 of 2022 had been filed seeking the same relief with respect to the deceased first respondent and bring on record the legal representatives of the first respondent. The same reasons have been given in the affidavit filed in support of the application.

4.A perusal of the records show that the appeal had been admitted and substantial questions of law had been framed. Therefore, a burden is cast on the Court to answer the substantial questions of law. It would only be appropriate that the petitioners are made as parties in the second appeal and they made aware of the actual status and position of the second appeal, which has been pending over the past more than 25 years.

5.It is also seen that the appellant herein was the defendant in the suit and both the Courts below have given differing judgments on the same set of evidence. Notice has been directed in these applications and counsel had also entered appearance on behalf of the proposed respondents. In view of these facts, these applications are allowed.

sms

08.07.2022



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