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C.M.P.No.5600, 5601 & 5602 of 2022

in

S.A.No.932 of 2005

C.V.KARTHIKEYAN, J.

These three Civil Miscellaneous Petitions relate to the death of the 8th appellant, K.Amudha seeking to condone the delay in filing application to set aside abatement, to set aside abatement and to bring on record her legal representatives as appellants 9 and 10.

2.It appears that the First Appellate Court had originally remanded the matter back to the Trial Court for fresh disposal. Questioning such remand a learned Single Judge of this Court had allowed the said appeal and had directed the First Appellate Court to itself dispose of the First Appeal on merits. That was wrongly interpreted by the First Appellate Court and decision on merit was not rendered.

3.Questioning such approach the present Second Appeal has been filed and the first substantial question of law which had been framed was whether the First Appellate Court had properly understood the directions issued by this Court in CMA.No.198 of 1996.



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4. In view of the fact that the First Appellate Court will have be directed to re-hear the First Appeal on merits, it would only be proper that before such a direction is given, the legal representatives of the deceased appellant are also brought on record.

5. In view of that reasons, these three Civil Miscellaneous Petitions are allowed.

6. The Registry may note the death of the 8th respondent, K. Amudha and bring on record her legal representatives as appellants 9 and 10.

7. It is also transpires that to bring on record the correct legal representatives of the deceased 1st respondent, another petition has been filed by the appellants. Let the learned counsel urge the Registry to number the same and put it up for consideration of this Court on 12.07.2022.

29.06.2022

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