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CMP.Nos.3122, 3127 & 3128 of 2022

&

S.A.No.1295 of 2010

KRISHNAN RAMASAMY.J.,

These petitions have been filed praying (i) to condone the delay of 2091 days in filing the petition to set aside the abatement caused due to the death of the second respondent namely R.Kaliaperumal, in the above Second Appeal, (ii) to set aside the abatement caused due to the death of the second respondent namely R.Kaliaperumal, in the above second appeal, and (iii) to permit the petitioners/appellants to bring on record the respondents 3 to 10 as the legal heirs of the deceased second respondent namely R.Kaliaperumal and rank them as respondents 3 to 10 in the above second appeal, respectively.

2.Heard, Mr.A.V.Arun, learned counsel for the petitioners/appellants and Mr.T.R.Rajaraman, learned counsel, who entered appearance for the first respondent.

3.The learned counsel for the first respondent has no objection in allowing these petitions.



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4.It is seen that the second respondent had passed away and the respondents 3 to 10 are the proposed respondents. As far as respondents 4, 5, 9 and 10 are concerned, notice has been served. Private notice taken to the third respondent returned with a postal endorsement that " unclaimed" and private notice taken to the sixth respondent returned with a postal endorsement "refused" and private notice taken to the eighth respondent returned with a postal endorsement "no such person". Therefore, in respect of respondents 3 & 6 notice has been deemed to be served, since they may consciously " unclaimed" or " refused". The petition is only to condone the delay in filing the petition to set aside the abatement caused due to the death of the second respondent. The first respondent was already served. Except R8, all other respondents have been deemed to be served.

5.It is shown in the cause list that R1 had passed away. But the learned counsel for the first respondent submitted that the first respondent has left from the address given. Therefore, Registry is directed to verify the said aspect as to whether R1 has left. Registry is directed to print the name of Mr.T.R.Rajaraman, learned counsel who entered appearance on behalf of



the first respondent, in cause list.

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6. Considering the averments made in the affidavits filed in support of the respective petitions and since no objection is reported by the learned counsel for the first respondent, these petitions are allowed.

7. Registry is directed to carry out necessary amendment in the cause title within a period of two weeks.

8. List the second appeal for final hearing on 31.10.2022.

17.10.2022

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