



WEB COPY



CMP.Nos.4847, 4851 & 4852 of 2022

in

SA.No.1276 of 2009

KRISHNAN RAMASAMY.J.,

These petitions have been filed praying (i) to condone the delay of 3025 days in filing the petition to set aside the abatement caused due to the death of the appellant namely Chandrahasa Padayachi in the above second appeal, (ii) to set aside the abatement caused due to the death of the appellant in the above second appeal, (iii) to permit the appellant to bring on record the petitioners 1 and 2/proposed appellants herein as the legal heirs of the deceased appellant and array them as appellants 1 & 2 in the above second appeal, respectively.

2. The learned counsel appearing for the petitioners would submit that since no steps were taken to bring the legal representatives of the appellant, who was the father of the petitioners, namely, Chandrahasa Padayachi, who died during pendency of the appeal on 17.06.2013, this Court dismissed the appeal as abated on 19.08.2021. He pointed out that even in the year 2013 itself, immediately after the death of the appellant, the petitioners/proposed appellants have filed petition in CMP Sr.No.94524 of



2014 well within the time, seeking to bring on record the legal heirs of the appellant, however, the same was returned for compliance of certain corrections. He would submit that in the mean time, the said returned papers were misplaced and could not be traced out and in such circumstances, there occurred delay in filing the petition to bring on the legal heirs of the appellant as well as to set aside the abatement caused due to the death of the appellant. Therefore, the learned counsel would urge this Court to allow the present applications.

3. The learned counsel for the respondents has reported no objection in allowing these petitions.

4. Considering submissions made by the learned counsel for the petitioners and the reasons mentioned in the affidavits filed in support of the respective petitions and since the petitioners had already filed the petition to bring legal heirs on record well within time on earlier, but could not be re-presented it for the reasons stated, this Court feels it appropriate to allow these petitions.



5. Accordingly, these C.M.Ps. are allowed. Registry is directed to carry out necessary amendments in the cause title and list the matter on 28.10.2022.

14.09.2022

dn



WEB COPY



KRISHNAN RAMASAMY.J.,
dn

CMP..Nos.4847, 4851 & 4852 of 2022
in
SA.No.1276 of 2009

14.09.2022