



C.M.P. Nos.10050, 10051 & 10053 of 2019
in S.A. Sr. No.80356 of 2004
and C.M.P. No.5027 of 2005

S.S.SUNDAR, J.,

C.M.P. No.10050 of 2019 is filed to condone the delay of 1817 days in filing the petition to set aside abatement caused due to the death of first respondent, C.M.P. No.10051 of 2019 is filed to set aside the abatement caused due to the death of first respondent and C.M.P. No.10053 of 2019 to bring on record the respondents 7 to 10 as legal heirs of the deceased first respondent in the above appeal.

2. Heard Ms. Selvi Rajesh, learned counsel for the petitioner, Ms. V.Sripriya, learned counsel for the first respondent and Mr. R.Prabhakar for respondents 7 to 10.

3. Though the delay is inordinate, learned counsel for the petitioner stated that the delay has not caused much hardship to the respondents. When there is a delay in filing a petition to set aside the abatement or to implead the legal heirs of any of the deceased parties to the appeal, the Court used to take lenient view so that the parties may get a fair judgment. In the present case, though the petitioner has not properly given reasons for the delay in filing a petition to set aside the abatement, this Court is inclined to show some leniency to the petitioner.

3. Accordingly, these petitions are allowed subject to payment of a sum of Rs.2,000/- (Rupees Two Thousand only) to each of the counsel appearing on behalf of first respondent and 7 to 10th respondents, within a period of two weeks from today.



4. It is brought to the notice of this Court that the petitioner has filed a petition in C.M.P. No.5027 of 2005 to condone the delay of 317 days in filing the appeal. Though separate petitions are necessary to condone the delay in setting aside the abatement caused due to the death of the first respondent, to set aside the abatement and bring on the legal representatives of the deceased first respondent, both in the unnumbered appeal as well as in the petition to condone the delay in C.M.P. No.5027 of 2005, the above petitions in C.M.P. Nos.10050, 10051 & 10053 of 2019 have been filed only in respect of the above unnumbered second appeal.

5. In order to avoid further delay, this Court is inclined to suo-motu implead respondents 7 to 10 herein as respondents 7 to 10 herein as respondents 7 to 10 in C.M.P. No.5027 of 2005. Accordingly, the legal heirs of deceased first respondent namely the respondents 7 to 10 in the appeal are impleaded as parties in C.M.P. No.5027 of 2005, and be shown as respondents 7 to 10.

6. Registry is directed to list C.M.P. No.5027 of 2005 after carrying out the necessary amendment, after two weeks.

04.04.2022

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