



C.M.P.Nos.6910 & 6915/2022

C.M.P.Nos.12623, 12624, 12628, 10442, 10444, 10448 of 2022,
14824, 14813 & 14819 of 2021 in
S.A.Nos.405 of 2003 & 1452 of 2002

C.V.KARTHIKEYAN.J.,

In S.A.No.405 of 2003, the second appellant viz., Savithri had died necessitating filing CMP Nos.10442, 10444 & 10448 of 2022. Further the first respondent M.Subbaiyan also died which necessitated filing of CMP Nos.12623, 12624 & 12628 of 2022 in S.A.No.405 of 2003. In S.A.No.1452 of 2002, aforementioned Savithri, was the second respondent and pursuant to her death, CMP Nos.14824, 14813 & 14819 of 2021 have been filed.

2. All these applications have been filed seeking to condone the delay in filing application to set aside abatement, to set aside the abatement and to bring on record the legal heirs. In the affidavit filed in the Civil Miscellaneous Petitions in S.A.No.405 of 2003, it had been stated that the petitioners therein were under the impression that the case was looked after properly by the first and second appellants, but unfortunately both of them died. Then they have come to understand that the appeal got abated with respect to first respondent for whom legal representatives were not brought on record. With respect to Civil Miscellaneous Petitions filed in S.A.No.1452 of 2002, it had been stated that details had to be obtained from the Department, with respect to names of the legal heirs and there was a delay in the same. Immediately thereafter present applications have been filed.



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3. Heard Mr.M.Baskar, learned counsel for the appellant in S.A.No.405 of 2003 and Mr.Vijeykumar, learned counsel for the appellant in S.A.No.1452 of 2003. A perusal of the record shows that both the appeals have been admitted and substantial questions of law have been framed. Both the appeals relates to a Will, which had been sought to be proved and judgements relating to the said Will, are the subject matter of the Second Appeals. It would only be appropriate that the matter is heard on merits and examined.

4. Though there is delay, I condone the delay and the applications filed to set aside the abatement and bring on record the legal representatives of the applicants are allowed.

01.08.2022

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