



C.M.P.Nos.17788, 17789 & 17790 of 2019 in
S.A.No.1814 of 2002

C.V.KARTHIKEYAN,J.

The defendant in O.S.No.1108 of 2016 on the file of the District Munsif cum Judicial Magistrate, Omalur is the appellant herein. The appellant had died and subsequently applications have been filed to bring on record the legal heirs of the deceased appellant in C.M.P.Nos.1362 to 1364 of 2017, which were allowed by order dated 07.02.2017. The sole respondent shown in the cause title in the Second appeal was the plaintiff in the suit. Mr.S.M.Velumurugan and Mr.R.T.M.Kannan were impleaded as respondents 2 & 3 vide order dated 22.06.2021 in C.M.P.Nos.20083 of 2016 & 15926 of 2017. They had effectively stepped into the shoes of the plaintiffs and by the aforesaid order, their status have been recognized by the Court.

2. Subsequently, the original plaintiff viz., Susila had also died and the appellant had filed three applications in C.M.P.Nos.17788, 17789 & 17790 of 2019 to condone the delay of 368 days in filing the petition; to set aside the abatement and to bring on record the legal heirs of the deceased original sole respondent / plaintiff. Though it is shown that they have to be impleaded as respondents 2 to 6, they can be impleaded only as respondents 4 to 8, in view of the fact that respondents 2 and 3 are already impleaded by the Court.



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3. Notice has been ordered to all the legal heirs. On perusal of the records, it shows that one of the legal heirs has been served, another has refused and notice to yet another legal representative has been returned as 'no such person'. It is stated by Mr.Jagadeesan, learned counsel for the appellants that the said individual for whom notice has been returned as 'no such person' has been served through private notice.

4. Be that as it may, the actual contesting respondents would be R.2 and R.3 who have been impleaded by the Court. But let there not be any exemption of formalities by the Court and therefore all the three applications filed to condone the delay of 368 days, to set aside the abatement and to bring on record the legal heirs stand allowed.

08.06.2022

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