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C.M.P. No.893 of 2022
in S.A.No.544 of 2014

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T.V.THAMILSELVI, J.

This Civil Miscellaneous Petition has been filed praying to exempt the petitioners from the necessity of substituting the LRs of the 2nd respondent, who failed to defend the suit and the appeal suit.

2. Mr.N.Manokaran, learned counsel for petitioners would submit that the petitioners have filed this petition to exempt them from taking steps in respect of 2nd respondent/3rd defendant, since he did not file the first appeal. The learned counsel would further submit that the first appeal was filed by 1st respondent/2nd defendant and he claims that he is also having share in the suit property.

3. Mr.R.Subramaniam, learned counsel for respondents appeared and submitted that he has no objection in allowing this petition.



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4. Before the trial court, the 3rd defendant remains exparte and not contested the suit. So also, she has not preferred any appeal. During the pendency of the proceedings, she died. Now, the appellant/plaintiff praying to exempt the petitioners from substituting the legal representatives of 2nd respondent/3rd defendant, who failed to defend the suit. The reasons stated by the petitioners is justifiable one as she has not contested the suit before the trial court and though the suit was decreed against all the defendants, the 2nd defendant alone had filed this appeal. Considering the said facts and circumstances, this petition is ordered and the petitioners are exempted from substituting the legal representatives of 2nd respondent.

23.08.2022

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Note :- Registry is directed to number the above petition if the same is otherwise found to be in order and post the matter on 08.09.2022.



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