



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Wednesday, the Twentieth day of April Two Thousand Twenty Two

PRESENT

THE HON`BLE MRS.JUSTICE J.NISHA BANU

CMP.Nos.26315, 26317 & 26319 of 2019

in CMA.No.2876 of 2007

1 THAMARAI WILLIAMS [PETITIONERS IN ALL THE PETITIONS]

2 ARCHIBALD DESIGAN (DIED)

3 MRS.RAJALAKSHMI ARCHBALD

4 MILTON CHAKARAVARTHI

5 MRS.RITA S.

6 A.HEMA

Vs

1 J.PRABHU [RESPONDENTS IN ALL THE PETITIONS]

2 HARIETT PETERS

3 K.CHANDRAN

4 KINGSTON

5 BRINDA JEEVARATHINAM

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased

1.CMP No.26315 of 2019

To condone the delay of 778 days in filing the petition to set aside the abatement caused due to the death of the second appellant Archibald Desigan, in the above CMA.No.2876/2007 on the file of this Honourable Court.

2.CMP No.26317 of 2019

To bring on record petitioner 3 to 6 herein legal heirs of the deceased second appellant, Archibald Desigan, as appellants 3 to 6 in the above CMA.No.2876/2007.



3.CMP No.26319 of 2019

To set aside the abatement of the CMA.No.2876 of 2007 on the file of this Honourable Court, caused due to the death of the second appellant Archibald Desigan.

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Order : These petitions coming on this day for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.M.L.RAMESH, Advocate for the petitioners in all the petitions and of MR.SABARISH, Advocate for MR.S.K.RAGHUNATHAN, Advocate for the 1st Respondent and of MR.ARUL BALA, Advocate for MR.V.ANANDAMOORTHY, Advocate for the 2 to 4 Respondents in all the petitions, the court made the following order:-

The petition in CMP.No.26315 of 2019 has been filed by the petitioners to condone the delay of 778 days to file a petition to set aside the abatement caused due to the death of the second appellant, CMP.No.26319 of 2019 has been filed to set aside the abatement and CMP.No.26317 of 2022 has been filed to bring on record the legal representatives of the deceased second appellant.

2. The learned counsel for the petitioners submitted that the second respondent died on 18.05.2017. The petitioners did not contact their counsel since they were under the impression that as the appeal had been filed by the respondents one and three in the probate proceedings, there is no need for impleading the legal heirs of the second appellant. As the Will is being challenged by the parties, the petitioners had not taken steps to implead the legal representatives of the deceased second appellant. Hence, the delay has occurred and the same is neither willful nor wanton.

3. Considering the submissions made by the learned counsel for the petitioners and on perusal of the affidavit filed in support of the petitions, the delay is condoned on payment of cost of Rs.1000/- [Rupees one thousand only] to Mr.Arul Bala, the learned counsel appeared for the respondents 2 to 4 within a period of one week, failing which these petitions stand automatically dismissed, without any reference to this Court. On payment of the above cost, the other petitions are Ordered as prayed for.

-sd/-

20/04/2022

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.



TO

THE DISTRICT JUDGE OF THE NILGIRIS
AT UDHAGAMANDALAM.

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Order

in

CMP.Nos.26315, 26317 & 26319 of 2019

in CMA.No.2876 of 2007

Date :20/04/2022

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