



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Friday, the Eighteenth day of March Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

C.M.P (MD) Nos.2259, 2264, 2265, 2266 and 2267 of 2022
IN
S.A.No.656 of 2001

R.CHELLAM NADAR (DIED)

K.RAVILEKAMARAJ

... PETITIONER / PETITIONER /
PROPOSED 2nd APPELLANT
IN ALL THE PETITIONS

Vs

1. KUMARASAMY
2. C.MUTHUSAMY
3. C.THANKARAJ

C.VARGHESE (DIED)

4. C.JOHN ROSE

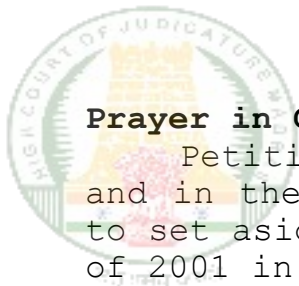
CHELLAMMAL (DIED)

5. SARASWATHI
6. MAHALAKSHMI
7. V.SUBBAIAN NADAR
8. C.JEBAMANI NADAR
9. C.PAULRAJ
- 10.R.PONNU NADAR
- 11.P.VARGHESE
- 12.P.ROBINSON
- 13.THANGAPUSHPAM
- 14.C.MUTHULAKSHMI
- 15.C.SREEDHARAN
- 16.C.SUNDARAN
- 17.C.MANO HARAN
- 18.C.PARAMESWARAN
- 19.C.RAJAKUMARI
- 20.C.VIJAYA

... RESPONDENTS 1 TO 20 / RESPONDENTS
IN ALL THE PETITIONS

- 21.MANONMANI
- 22.ANITHA
- 23.AMUTHA
- 24.NAGARAJAN
- 25.SATHISH
- 26.RAMESH

... RESPONDENTS 21 TO 26/RESPONDENTS/
PROPOSED RESPONDENTS
IN ALL THE PETITIONS



Prayer in CMP(MD) . 2259/2022 :

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to set aside the order dated 19-02-2021 and RESTORE the CMP.No.10745 of 2001 in S.A.No.656 of 2001 before this Hon`ble court.

Prayer in CMP(MD) . 2264/2022 :

To set aside the order dated 19-02-2021 and RESTORE the CMP.No.10746 of 2001 in S.A.No.656 of 2001 before this Hon`ble court.

Prayer in CMP(MD) . 2265/2022 :

To set aside the order dated 19-02-2021 and RESTORE the MP(MD). No.1 of 2011 in S.A.No.656 of 2001 before this Hon`ble court.

Prayer in CMP(MD) . 2266/2022 :

To set aside the order dated 19-02-2021 and RESTORE the MP(MD). No.2 of 2011 in S.A.No.656 of 2001 before this Hon`ble court.

Prayer in CMP(MD) . 2267/2022 :

To set aside the order dated 19-02-2021 and RESTORE the MP(MD). No.3 of 2011 in S.A.No.656 of 2001 before this Hon`ble court.

PRAYER IN S.A.NO.656 OF 2021 :

Prefers this Memorandum of Second Appeal against the decree and Judgment dated 28.06.1999 in A.S.No.47 of 1995, on the file of the Sub-Judge, Padmanabhapuram, Kanyakumari District and reversing the decree and Judgement in O.S.No.757 of 1983 dated 14.07.1992 on the file of Principal District Munsif Court at Padmanabhapuram.

ORDER : These petitions coming up for orders on this day, upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of MR.D.NALLATHAMBI, Advocate for M/S.R.MURUGAN, Advocate for the petitioner in all the petitions and of MR.R.SRINIVAS, Advocate on behalf of the Respondents No.1,3,7 & 8 in all the petitions, the court made the following order:-

Pending the second appeal, the fifth respondent died on 15.01.2000 and therefore, C.M.P.No.10745 of 2001 was filed to bring on record the legal heirs of the fifth respondent as respondents 22 to 27 in the second appeal; C.M.P.No.10746 of 2001 was filed to declare the respondent 22 as guardian for minor respondents 24 to 27. Notice was ordered in these petitions on 08.09.2003. Pending these petitions, the sole appellant died on 23.12.2008. Therefore, three subsequent miscellaneous petitions in M.P(MD)Nos.1 to 3 of 2011 were filed to condone the delay in filing a petition to bring on record the legal heirs of the sole appellant; to set aside the abatement caused due to the death of the sole appellant; to bring on record the legal representative of the sole appellant as appellant, respectively.



2. When the above said five miscellaneous petitions were taken up for hearing on 19.02.2021 there was no representation for the petitioner and the said petitions were dismissed.

3. Now these five miscellaneous petitions are filed to set aside the dismissal order dated 19.02.2021 and to restore the said miscellaneous petitions respectively.

4. The learned Counsel for the petitioner submits that the name of the Counsel on record for the petitioner is R. Murugan, but in the cause list on 19.02.2021, it was printed as R. Murugesan. Therefore, the petitions were left unrepresented. There is no fault on their part for the same.

5. This Court verified the cause list dated 19.02.2021. Being satisfied with the reasons assigned by the petitioner, these petitions are allowed. The order dated 19.02.2021 is set aside. C.M.P.Nos.10745 and 10746 of 2001 and M.P(MD)No.1 to 3 of 2011 are restored.

6. Petitioner is permitted to take fresh private notice to the respondents in C.M.P.Nos.10745 and 10746 of 2001 and M.P(MD)No.1 to 3 of 2011 returnable by 01.04.2022.

List C.M.P.Nos.10745 and 10746 of 2001 and M.P(MD)No.1 to 3 of 2011 **on 01.04.2022.**

sd/-
18/03/2022

/ TRUE COPY /

/ /2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE SUBORDINATE JUDGE,
PADMANABHAPURAM, KANYAKUMARI DISTRICT.
2. THE PRINCIPAL DISTRICT MUNSIF,
PADMANABHAPURAM.

ORDER IN
C.M.P(MD)Nos.2259, 2264, 2265,
2266 and 2267 of 2022
in
S.A.No.656 of 2001
Date :18/03/2022

dsk
USK/PN/SAR-IV/28.03.2022/3P/3C

<https://hcservices.ecourts.gov.in/hcservices/>