



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
Civil Appellate Jurisdiction**

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

WEB COPY

**PRESENT**

**The Hon`ble Mr.Justice B.PUGALENDHI**

**CMP(MD) . No.4251 of 2021**

**in**

**SA.No.1399 of 1997**

1. A. Rajammal (Died),

2. A. Chandrasekar

3. A. Arumugasamy

... Petitioners/L.rs of the Deceased  
Sole Appellant

**Vs**

1 R. Saratha Ammal (Died)

2 Tuticorin Municipality,  
Through its Commissioner W.G.C. Road  
Tuticorin.

3 A. Palanichamy

4 A. Rajamanickam

5 Gandhi

6 Chandra,

7 Padmavathi,

8 Susila,

9 Jegajothi

10 R.Rajkumar

... Respondents/Respondents

(10<sup>th</sup> Respondent is brought on record as Lrs of the deceased 1<sup>st</sup>  
Respondent vide court order Dated 18/03/2022 made in CMP(MD)  
Nos.4251,4773 to 4775/2021)



**Prayer :- CMP(MD) . No.4251 of 2021**

Civil Miscellaneous Petition filed under section XLI 19 of Code of Civil to set aside the order of dismissal for default dated 12.03.2021 passed in S.A.No.1399 of 1997, on the file of this Honourable Court and to restore the same to file, and thus render justice.

**Prayer :- SA. No.1399 of 1997:**

Second Appeal filed under section 100 of C.P.C.P to set aside the decree and judgment dated 05/07/1996 made in A.S.No.403 of 1994, on the file of the Principal District Judge, Tuticorin, preferred against the judgment and decree in O.S.No.639 of 1988 dated 26/03/1992 on the file of the Additional District Munsif, Tuticorin.

ORDER:- This Civil Miscellaneous Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mrs.P.Jessi Jeeva Priya Advocate for the Petitioner and of Mr.G..Prabhu Rajadurai Advocate for the Tenth Respondent, this Court made the following order:

There are four miscellaneous petitions filed, viz.,C.M.P(MD) Nos.4251 and 4773 to 4775 of 2021 to set aside the order of dismissal for default dated 12.03.2021; to condone the delay of 1983 days in filing the petition to bring the legal representative of the deceased 1st respondent; to set aside the abatement in S.A.No.1399 of 1997; to bring the 10th respondent on record as the legal representative of the deceased 1st respondent;

2.Mr.G.Prabhu Rajadurai, learned Counsel has entered appearance for 10th respondent and has expressed his no objection and Mr.Santhana Boopathi, learned Counsel for respondents 3, 7, 8 and 9 has raised his objection for allowing these petitions.

3.Being satisfied with the reasons assigned in the affidavits filed in support of these petitions, these miscellaneous petitions are allowed. The second appeal is restored.

4.Registry is directed to carry out the necessary amendment in the cause title.

5.It is further submitted that the cross objector is the first respondent in the second appeal and steps are due. The learned counsel seeks time that he has already filed necessary petitions in the cross objection.



6.Registry shall verify and list the said petitions on  
25.03.2022.

Sd/-

Assistant Registrar (CS III)

WEB COPY

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

TO

1.The Principal District Judge,  
Tuticorin

2.The Additional District Munsif  
Tuticorin.

Copy to:

1.The Section Officer,  
Judicial Section,  
Madurai Bench of Madras High Court, Madurai

2.The Section Officer,  
V.R.Section,  
Madurai Bench of Madras High Court, Madurai

ORDER DATED : 18/03/2022

HEARING DATED: 25/03/2022

=====

ORDER

=====

CMP(MD) . No.4251 of 2021

IN

SA.NO.1399 OF 1997

Giving direction and etc.  
as stated within.

MGJ(24.03.2022) 3P 6C