



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

Wednesday, the Twenty Eighth day of September Two Thousand and
Twenty Two

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PRESENT

The Hon`ble Mr.Justice N.SESHASAYEE

CMP(MD) No.5539 of 2022
IN
SA No.830 of 2004

1 1. U.P.K. MOHAMED HANIFA (SINCE DECEASED) ... SOLE APPELLANT

2. K.M.HIDAYADULLAH

3 K.M.JAKIR HUSSAIN,

4 M.FARITHA BEGAM,

5 K.M.SIDDI HUNAITHA,

6 M.JESSIMA YASMIN,

7 M.FAIROSE,

... PETITIONERS 2 TO 7/ APPELLANTS 2 TO 7

Vs

1 SRI SELVA VINAYAGAR TEMPLE,

REPRESENTED BY SUBBAIH PANDARAM

... 1ST RESPONDENT /

1ST RESPONDENT

2 SUBBAIAH PANDARAM(SINCE DECEASED)

... 2nd RESPONDENT

3 SOLAI,

4 SEKAR,

5 VALLIYAMMAI,

6 GANGADEVI,

7 BALAMURUGAN,

... RESPONDENTS 3 to 7 /

PROPOSED RESPONDENTS 3 to 7

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to condone the delay of 1223 days in filing the application to set aside the abatement caused in respect of death of deceased 2nd Respondent in S.A. No. 830 of 2004.

PRAYER IN SA No.830 of 2004:

To prefer this Memorandum of Second Appeal against the Judgment and Decree in A.S.No.163 of 2003 on the file of the Principal District Judge, Tiruchirappalli dated 29.10.2003 in reversing the well considered Judgment and Decree in O.S.No.149/1999 on the file of the District Munsif, Manappari dated 31.03.2003.



ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.I.B.IBRAHIM SAHIB, Advocate for M/S.AJMAL ASSOCIATES, Advocate for the petitioners and of Mr.G.Gomathi Sankar, Advocate for the respondents 3 to 7, the court made the following order:-

The predecessor-in-title of the petitioners/appellants had laid a suit for declaration of tile and for certain allied relief of injunction against the Temple and its Trustees. The petitioners/appellants have preferred this application for condoning the delay of 1223 days in filing the application to set aside the abatement caused due to the death of the deceased 2nd respondent. This has been allowed on payment of cost on 20.09.2022 and the cost memo dated 21.09.2022 is filed. In the meantime, one of the proposed legal heirs of the deceased Trustee is also reported to have died.

2. Since the vacancy is created to the office of the Trusteeship, there is no need to implead any legal heirs. It must be said that the application for condoning the delay of 1223 days in filing the application to set aside the abatement caused due to the death of the deceased 2nd respondent has been ordered essentially by inadvertence.

3. The learned counsel appearing for the appellants submitted that since the cost has already been paid to Siddha Clinic, he would forego the cost already paid.

4. This Court, therefore, recalled the order dated 20.09.2022 and closed this petition.

sd/-
28/09/2022

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/10/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE PRINCIPAL DISTRICT JUDGE, TRICHY.
- 2 THE DISTRICT MUNSIF, MANAPPARI.

ORDER
IN
CMP(MD) No.5539 of 2022
IN
SA No.830 of 2004
Date :28/09/2022

ssb
PKP/VR/SAR- /03.10.2022/2P/3C

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