



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

Thursday, the Fifteenth day of December Two Thousand and Twenty Two

PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN
and
The Hon`ble Mr.Justice SUNDER MOHAN

CMP(MD) Nos.10145 to 10148 of 2022
in
AS(MD) No.62 of 2012

1 C.KRISHNAMMAL (DIED) ... 1ST APPELLANT IN ALL CMP'S
2 P.RAJESWARI ... PETITIONER NO.2/APPELLANT NO.2
IN ALL CMP'S
3 M.CHIDAMBARAM
4 C.RAMALINGAM
5 AMIRTHAM
6 SUNDARALAKSHMI ... PETITIONERS 3 TO 6
/PROPOSED APPELLANTS 3 TO 6
/LEGAL HEIRS OF 1ST APPELLANT
IN ALL CMP'S

Vs

1 S.A.V.RAMAN
2 P.KANAGAVELAMMAL
3 V.N.KANNAN
4 N.BRINDAVAN
5 N.PRABHU
6 N.BALAJI
7 SORNALATHA
8 JOTHIMANI
9 N.MAHESWARI ... RESPONDENTS 1 TO 9/RESPONDENTS 1 TO 9
IN ALL CMP'S
10 M.SHENBAGAM ... RESPONDENT NO.10/RESPONDENT NO.10
IN ALL CMP'S
11 C.MUTHUVELAYUTHAM ... RESPONDENT NO.11/PROPOSED RESPONDENT NO.11
IN ALL CMP'S

Prayer in CMP(MD).10145/2022 in AS(MD).62/2012 :

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 493 days in setting aside the abatement caused due to the death of the 1st appellant.



Prayer in CMP(MD).10146/2022 in AS(MD).62/2012 :

To set aside the abatement caused due to the death of the 1st appellant.

Prayer in CMP(MD).10147/2022 in AS(MD).62/2012 :

To bring on record the petitioners 3 to 6 and the 11th respondent herein as the legal heirs of deceased 1st appellant and rank them as appellants 3 to 6 and 11th Respondent.

Prayer in CMP(MD).10148/2022 in AS(MD).62/2012 :

To pass suitable orders to receive the mentioned below documents filed herewith as additional evidence in the present appeal suit in A.S(MD)No.62 of 2012 on the file of this Hon'ble Court.

Prayer in AS(MD).62/2012 :

To set aside the decree and judgment dated 01.02.2012 made in O.S.No.4 of 2011 on the file of the Learned Additional District Judge, Fast Track Court, Dindigul and allow this appeal and thereby decree the suit with costs throughout.

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 M/S.S.PARATHASARATHY, Advocate for the petitioner in all CMP'S and of MR.S.MOHAN KUMAR, Advocate on behalf of the Respondent Nos.1 to 8 in all CMP'S, the court made the following order:-

Suit for partition dismissed by the trial Court. Aggrieved by that, appeal has been preferred by the appellants. Pending appeal, first appellant/first plaintiff died on 10.06.2018, but the remaining appellants have not taken any steps to bring on record the legal representatives of the deceased first appellant in time. Thus, the delay of 493 days has occurred.

2.These three applications are filed to condone the delay of 493 days in filing the petition to set aside the abatement caused due to the death of the first appellant and to bring the legal representatives of the deceased first appellant on record.

3.Taking note of the fact and the reasons stated in the affidavit, this Court is of the view that being a partition suit all parties, who are interested in the suit property, to be brought on record for completion of proceedings. Hence, these petitions are allowed on condition that the petitioners pays a sum of Rs.10,000/- to the High Court Legal Services Committee, within 15 days from today. On such payment, the petitioners shall be permitted to carry out the amendment.

4.Learned counsel for the petitioners/appellants is permitted to take private notice to the proposed 11th respondent, who is one of



the son of the deceased first appellant, returnable by four

5. List the matter for final disposal after completion of service to the proposed 11th respondent.

sd/-

15/12/2022

WEB COPY

/ TRUE COPY /

/12/2022

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

am

TO

THE ADDITIONAL DISTRICT JUDGE, FAST TRACK COURT, DINDIGUL.

ORDER

IN

CMP(MD) Nos.10145 to 10148 of 2022
in AS(MD) No.62 of 2012

Date :15/12/2022

RS/SSS/SAR.4(23.12.2022) 3P-2C