



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

Thursday, the Twenty First day of July Two Thousand and Twenty Two
PRESENT

The Hon`ble Mr.Justice P.VELMURUGAN

C.M.P (MD) No.5714 of 2022
in
A.S.No.703 of 1992

1 C.V.AHAMED KUTTY (DIED)

2 C.V.ALAVI KUTTY

3 KUNJU KOTAMBU (DIED)

4 FATHIMA KUTTY

5 ABDUL KHADER

6 FAIZEL

7 ABIDA

8 SHAHARABANU

9 IYYATHUMMA (DIED),

10 AYISHA BEEVI

11 FATHIMA

12 SAINABA

13 MUHAMMED ASHRAF

14 MUHAMMED BAHEER

... PETITIONERS / APPELLANTS

Vs

1 S.RAMALINGAM (DIED)

2 S.RAJENDRAN

3 SENGAMALA SERVAI (DIED)

4 RENGASAMY SERVAI (DIED)

5 SATHIAMURTHY (DIED)

6 GOVINDAMMAL (DIED)

7 PERUMALSAMY NAIDU (DIED)

8 CHINNATHAMBI (DIED)

9 KOTTAISAMY NAIDU (DIED)

10 LAKSHMI (DIED)

11 KALIAPERUMAL

12 SUNDARA RAJAN

<https://www.mhc.gov.in>



13 ARUMUGAM
14 SELVI.PUSHPAM
15 MARIAMMAL
16 NAGARATHINAM
17 TAMILARASI (DIED)
18 MAHALINGAM (DIED ON 07.01.2017)
19 MAHADEVAN (DIED ON 18.02.2014)
20 GANESAN
21 GOWRI
22 MANIKANDAN
23 GEETHA
24 MANOHARAN (DIED ON 30.09.2008)
25 THILAGAVATHI
26 VALARMATHI
27 AYYAPPAN
28 REVATHI
29 KALAISELVI
30 NANTHAKUMAR
31 LALITHA
32 ASHWANTH, S/O.LATE.MAHADEVAN
33 ASHWANTH, S/O.LATE.MAHADEVAN
34 KALARANI
35 SAKTHI PRAKASH
36 NITHISH KUMAR
37 INDHIRA
38 R.SHIVAKUMAR
39 R.SIBHA
40 R.AGALYA
41 R.KUMARAN
42 NAGALAKSHMI
43 KALPANA
44 INDHUMATHI
45 ALAGARESAN

... RESPONDENTS /RESPONDENTS

... RESPONDENTS 42 TO 45 /
PROPOSED RESPONDENTS 46 TO 45 /
LR's OF DECEASED 5th RESPONDENT

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 the 5779 days in filing petition to set aside the dismissal order dated 09.08.2006 made against the 5th respondent in A.S.No. 703 of 1992 of this Honourable Court.

PRAYER IN AS No.703 of 1992:

To set aside the judgment and decree of the subordinate Court, Tanjore in O.S.No.26 of 1984 dated 07.10.1991 in so far as it relates to the appellant and suit items 23 to 26 and dismiss the suit and allow the appeal with cost 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 MR.I.VELPRADEEP, Advocate for the



petitioner and of MR.P.THIYAGARAJA, Advocate for the respondent, 37 to 41, the court made the following order:-

This petition has been filed to condone the delay of 5779 days in filing the petition to set aside the dismissal order, dated 09.08.2006 against the 5th respondent in the appeal.

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2. The second respondent has filed a counter affidavit and vehemently opposed that the reasons stated in the affidavit is not sufficient. The only reason stated in the affidavit is that the counsel for the appellant has not intimated the order of dismissal to the parties in time and that reason is not substantiated with any materials. The duty of the parties is to contact with the counsel periodically and not contacting the counsel for 5779 days, cannot be a reason to condone the delay and prayed for dismissal of the petition.

3. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the second respondent.

4. Admittedly, the petitioners are the appellants. They filed an appeal in the year 1992. Though the appeal was dismissed as against the 5th respondent on 09.08.2006, the petitioners have filed this petition with a delay of 5779 days. The reasons stated in the affidavit are that the counsel has not informed the order of dismissal. The petitioners are also equally responsible to contact with the counsel periodically, but, they kept quite for 5779 days and now simply come to this Court and blaming the counsel that he has not informed the dismissal order of this Court for more than 10 years and this is not a good reason to condone the huge delay. The petitioners invented the reasons for the purpose of this petition and the same is not genuine.

5. Though the reasons stated in the affidavit filed in support of the Petition are not satisfied, however, in order to give an opportunity to the petitioners, this Petition is allowed on condition that the Petitioners shall pay a sum of Rs.50,000/- (Rupees Fifty Thousand only) towards costs before the Registry to the credit of C.M.P(MD)No.5714 of 2022 within 10 days from today and on deposit of the same, the petition shall stand allowed and failing which, the Petition shall stand automatically dismissed without further reference to this Court.

6. List the matter on **05.08.2022** for reporting compliance.

sd/-

21/07/2022

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/07/2022

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



TO

THE SUBORDINATE JUDGE,
THANJAVUR

COPY TO:

- 1 THE SUB ASSISTANT REGISTRAR,
AE SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 2 THE SECTION OFFICER,
JUDICIAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 3 THE SECTION OFFICER,
ACCOUNTS SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

C.M.P (MD) No.5714 of 2022
in

A.S.No.703 of 1992

Date :21/07/2022

MK/PN/SAR.II/25.07.2022/4P/5C