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CMP(MD)



17

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

Wednesday, the Twentieth day of July Two Thousand and Twenty Two
PRESENT

The Hon`ble Mr.Justice P.VELMURUGAN

CMP(MD) No.1569 of 2017

IN

MP(MD) No.1 of 2011

IN

MP(MD) No.1 of 2008

IN

AS No.862 of 1993

1 GANAPATHY SUBRAMANIAN
2 RAJESWARI
3 SHANMUGANATHAN
4 KAILASANATHAN

... PETITIONERS/PETITIONERS
/PETITIONERS/APPELLANTS

Vs

1 GANAPATHY SUNDARAM(DIED)
2 SITALAKSHMI
3 SHANMUGA SUNDARARAJA(DIED)
4 S.RAMAKRISHNAN(DIED)
5 A.S.BALASUBRAMANIAN(DIED)
6 BADHRAKALI ALIAS CHANDRA
7 SHANMUGA NATHAN

... RESPONDENTS 1 TO 7/RESPONDENTS 1 TO 7
/RESPONDENTS 1 TO 7/RESPONDENTS 1 TO 7

8 SUNDRAVALLI
9 SIVAGAMI
10 BALASUBRAMANIAN
11 ANANDAVALLI
12 VELAMMAL
13 MINOR.MUTHU SELVI
14 MINOR.MUTHU LAKSHMI

[RESPONDENTS 13 & 14 ARE REPRESENTED
BY THEIR MOTHER/NATURAL GUARDIAN
THE 12TH RESPONDENT HEREIN]

... RESPONDENTS 8 TO 14/
PROPOSED RESPONDENTS 8 TO 14
(L.Rs OF DECEASED 1ST RESPONDENT)

15 BALA BHUVANESHWARI
16 G.JANAKI
17 GOMATHI BOOMA

... RESPONDENTS 15 TO 17/
PROPOSED RESPONDENTS 15 TO 17
(L.Rs OF DECEASED 3RD RESPONDENT)



18 R.SHANMUGAM
19 UMAIYORU BAGAN
20 C.RAJESHWARI
21 DEIVANAI

... RESPONDENTS 18 TO 21/
PROPOSED RESPONDENTS 18 TO 21
(L.Rs OF DECEASED 4TH RESPONDENT)

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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 624 days in filing above applications and to set aside the abatement caused due to the death of the deceased 4th respondent viz., S.Ramakrishnan in MP.(MD).1 of 2011 in AS No.862/1993.

Prayer in MP(MD).1/2011 in AS.862/1993 :

To Condone the delay of 923 days in filing the application for restoration of MP.Nos.1/2008 in AS.No.862/1993 which has been dismissed for default on 25/10/2006 for non-compliance of the conditional order passed in MP.Nos.1/2008 in AS.No.862/1993 dated 08/12/2008.

Prayer in MP(MD).1/2008 in AS.862/1993 :

To condone the delay of 589 days in filing the petition for restoration of the appeal in AS.862 of 1993 which was dismissed for default on 24.11.2006.

Prayer in AS.862/1993 :

To present this Memorandum of Regular Appeal against the Judgement and Decree of the Learned Subordinate Judge, Tuticorin passed in OS 71/1989 dated 02.09.1991.

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.M.P.SENTHIL, Advocate for the petitioners, the court made the following order:-

This petition is filed to condone the delay of 624 days in filing the application to set aside the abatement caused due to the death of the deceased 4th respondent viz., S.Ramakrishnan in M.P.(MD) No.1 of 2011 in A.S.No.862 of 1993.

2.Notice was served on the proposed respondents 18 to 21 and they entered appearance through the learned counsel. However, they have not filed any objection.

3.Though the reasons stated in the accompanying affidavit are not satisfied, in order to give an opportunity to the legal representatives of the deceased 4th respondent, this Civil Miscellaneous Petition is allowed on condition that the petitioners shall deposit a sum of Rs.5,000/- (Rupees Five Thousand Only) to the



credit of C.M.P.(MD)No.1569 of 2017 before the Registry, a period of one week from today (20.07.2022), failing which this petition shall stand dismissed for default automatically without further reference to this Court.

4.Post the matter on 11.08.2022 for reporting compliance.

sd/-

20/07/2022

/ TRUE COPY /

/07/2022

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

TO

THE SUBORDINATE JUDGE,
TUTICORIN.

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

CMP(MD) No.1569 of 2017
IN MP(MD) No.1 of 2011
IN MP(MD) No.1 of 2008
IN AS No.862 of 1993
Date :20/07/2022

RS/PN/SAR.1 (25.07.2022) 3P-5C