



C.M.P.No. 3689 of 2022

in

S.A. No. 1172 of 2005

T.V. THAMILSELVI, J.

This petition has been filed seeking to set aside the order dated 10.01.2022 dismissing the Second Appeal for non-prosecution.

2. Dr.S.Suriya, learned Addl. Government Pleader appearing for petitioners/appellants submitted that the above Second Appeal was dismissed on 10.01.2022 stating that the 1st respondent reported dead and no steps taken to bring the legal heirs on record. He would submit that due to administrative delay and covid pandemic situation, the appellant could not find out the particulars of his legal heirs and being left with no other alternative remedy, he approached the Tahsildar, Sirkali and obtained the details of his legal heirs. So, when the matter was listed on 10.01.2022, the learned counsel for appellant sought time. However, the Second Appeal was dismissed for non-prosecution on 10.01.2022 as the appeal was abated as against the 1st respondent having passed away. The non-prosecution by the appellants is neither willful nor wanton. Hence, he has filed the above petition to restore the above S.A.



3. Mr.B.Jawahar, learned counsel for 2nd respondent appeared and raised formal objections in allowing the above petition.

4. Considering the facts and circumstances, and being satisfied with the reasons assigned in the affidavit filed in support of the petition seeking to restore the Second Appeal, this Court is inclined to allow this petition and to restore the second appeal.

5. Post the matter on 07.09.2023.

30.08.2023

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