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C.M.P.Nos. 4635, 4636 & 4637 of 2022

in

S.A. No. 629 of 2012

T.V. THAMILSELVI, J.

These petitions are filed seeking to condone the delay of 3145 days in setting aside the abatement, to set aside the abatement caused due to the death of sole appellant, and to bring on record the proposed appellants 2 to 6 herein as legal representatives of deceased sole appellant.

2. Ms. P.Veena Suresh, learned counsel for petitioner/appellant submitted that pending appeal, sole appellant died on 03.04.2013. She would also submit that during the year of 2018, on coming to know about the pendency of the above second appeal, the petitioners have informed to the counsel at Salem about the death of sole appellant and handed over the death certificate. In the meanwhile, bundle was misplaced and due to lack of communication, during February 2022, counsel on record came to know about the death of him and particulars of legal heirs were furnished to her. Hence, the petition was not filed in time. In view of the same, there is a delay of 3145 days arose and the delay is neither willful nor negligent.

Hence, he has filed the above petitions.



3. Mr.S.Kaithamalai Kumaran, learned counsel for respondents 1 and 2 appeared and raised strong objections stating that there is an inordinate delay on the side of petitioners to implead his legal heirs. Hence, he prayed to dismiss these petitions.

4. Heard both sides.

5. Considering the facts and circumstances and on considering the reasons assigned in the affidavit seems to be justifiable one, all the petitions are allowed on condition that the petitioners/appellants shall pay a cost of Rs.2000/- payable to the respondents' counsel within a period of two weeks from the date of receipt of copy of this order. The proposed legal representatives of the sole appellant are impleaded as appellants 2 to 6 in the above Second Appeal.

6. The Registry is directed to carry out the necessary amendment in the cause title and post the matter on 31.08.2023.

02.08.2023

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