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C.M.P.Nos. 8516, 8526 & 8525 of 2022

in
S.A. No. 245 of 2006

T.V. THAMILSELVI, J.

These petitions are filed seeking to condone the delay of 4941 days in setting aside the abatement, to set aside the abatement caused due to the death of 1st respondent, and to bring on record the proposed respondents 17 to 25 herein as legal representatives of deceased 1st respondent.

2. Mr.P.Dinesh Kumar, learned counsel for petitioner/appellant submitted that pending appeal, 1st respondent died on 29.04.2008. He would also submit that due to lack of communication, the death of parties was not informed to them and furthermore, the petitioner unable to get details of his legal heirs and also due to illness, the petition to implead his legal heirs was not filed in time. In view of the same, there is a delay of 4941 days arose and the delay is neither willful nor negligent. The learned counsel would further submit that based upon the Will executed by pre-deceased son of 1st respondent, they are claiming share in the property. Hence, he has filed the above petitions.



3. The learned counsel appearing for 3rd respondent appeared and raised objections stating that there is no legal heirs for 1st respondent and prayed to dismiss the above petitions.

4. Heard both sides.

5. Considering the facts and circumstances and the fact that as they are claiming share in the property based on the Will, subject to proof of the Will, they are liable to be added as party to the proceedings and on considering the reasons assigned in the affidavit seems to be justifiable one, all the petitions are allowed. The proposed legal representatives of the 1st respondent are impleaded as respondents 17 to 25 in the above Second Appeal.

13.07.2023

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Note : The Registry is directed to carry out the necessary amendment in the cause title and list the matter on 09.08.2023.



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