



WEB COPY



C.M.P.No. 12072 of 2022

in

S.A. No. 953 of 2000

T.V. THAMILSELVI, J.

This petition has been filed seeking to set aside the order dated 04.04.2022 and restore the above second appeal, which was dismissed as abated.

2. Mr.P.Mani, learned counsel for petitioners/appellants submitted that since no steps taken for impleading legal heirs of 1st respondent, the above Second Appeal was dismissed as abated on 04.04.2022. In the meanwhile, 6th respondent died on 25.12.2010 and to implead her legal heirs, the petitions have been filed, however, when the notice sent to her LR's, they evaded service of notice, thereby those petitions have been dismissed. Thereafter, their counsel undergone surgery for his heart ailment and also due to Covid-19, they could not take steps, which is neither willful nor wanton. Accordingly, the above Second Appeal was dismissed. Now, he has filed the above petition to restore the above S.A.

3. Mrs. V.Srimathi, learned counsel for respondents 2 to 5 and 7 appeared and raised strong objections by mentioning various dates of past



hearings of appeal, she represented that when the case was posted for several hearings for taking steps to implead legal heirs, but they failed to take steps. So, she prayed to dismiss this petition.

4. The learned counsel for appellant would further submit that as defendants, they have claiming title over the property and they are having valid defence and if this petition is not allowed, their right to defend the case would be defeated.

5. On perusal of records, it reveals that the case was adjourned for several hearing to take steps for impleading legal heirs, but the appellants have failed to take steps and hence, the above Second Appeal was dismissed as abated. However, the objections raised by the learned counsel for respondent is also reasonable. On considering the fact that the appeal is pending from the year of 2000 and to put an end to the litigation, this court is inclined to allow this petition on condition that the petitioners/appellants shall pay a cost of Rs.2000/- payable to the respondents' counsel 2 to 5 and 7 within a period of two weeks from the date of receipt of copy of this order.

5. Post the matter on 10.10.2023.

22.09.2023



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