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C.M.P.Nos. 48, 49 & 51 of 2022

in

S.A. No. 36 of 2019

T.V. THAMILSELVI, J.

These petitions are filed seeking to condone the delay of 396 days in setting aside the abatement, to set aside the abatement caused due to the death of 6th respondent and to bring on record the proposed respondents 13 to 16 herein as legal representatives of deceased 6th respondent.

2. Mr.Avinash Wadhvani, learned counsel for petitioner/appellant submitted that pending appeal, 6th respondent died on 19.09.2018. He would also submit that due to lack of communication and also due to unaware of proceedings, the death of party was not informed to them and furthermore, the petitioner unable to get details of his legal heirs. Hence, the petition to implead his legal heirs was not filed in time. However, there is a delay of 396 days arose in setting aside the abatement and the delay is neither willful nor negligent. Therefore, he has filed the above petitions.

3. Mrs.V.Srimathi, learned counsel appearing for 1st respondent and Mr.R.Ezhilarasan, learned counsel for respondents 2 to 5 appeared and raised formal objections in allowing the above petitions.



4. Heard both sides.

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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. The proposed legal representative of the 6th respondent is impleaded as respondents 13 to 16 in the above Second Appeal.

6. Issue notice to respondents 6, 12 to 14 and to the proposed respondents 13 to 16 through court returnable by 23.08.2023. Private notice is also permitted.

7. The Registry is directed to carry out the necessary amendment in the cause title and post the matter on 23.08.2023.

21.07.2023

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