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C.M.P.Nos. 18314, 18333 & 18325 of 2023

in
A.S. No. 154 of 2001

T.V. THAMILSELVI, J.

These petitions are filed seeking to condone the delay of 4284 days in setting aside the abatement, to set aside the abatement caused due to the death of 8th respondent and to bring on record the proposed 11th respondent herein as legal representatives of deceased 8th respondent.

2. Mr.M.Balasubramanian, learned counsel for petitioners/appellants submitted that pending appeal, 8th respondent died on 14.06.2011. He would submit that her husband was predeceased and her son also died on 18.10.2022. His wife is residing in a portion of property and she surviving legal heir of deceased 8th respondent and so, the proposed 11th respondent is the only legal heir. He would also submit that due to lack of communication and due to unaware of proceedings, the death of 8th respondent was not informed to him and furthermore, the petitioner unable to get details of her legal heirs. Hence, the petition to implead her legal heirs was not filed in time. In view of the same, there is a delay of 4284 days arose and the delay is neither willful nor negligent. Hence, he has filed the above petitions.

3. Mrs.Vasudha Thiyagarajan, learned counsel appearing for respondents 1 and 2 appeared and raised strong objections in allowing the



above petitions. She would also submit that the above appeal in A.S.No.154 of 2001 was also ready disposed of on 30.07.2010. Hence, she prayed to dismiss the above 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, both the petitions are allowed. The proposed legal representative of the 8th respondent is impleaded as 11th respondent in the above Appeal.

6. Issue fresh notice to newly added respondent through court returnable by 11.10.2023. Private Notice is also permitted.

7. The learned counsel for appellants is directed to pay batta within three days.

8. The Registry is directed to carry out the necessary amendment in the cause title and also directed to verify whether the above appeal in A.S.No. 154 of 2001 is still pending or already disposed of.

9. Post the matter on 11.10.2023 along with the petition in C.M.P.No. 4215 of 2022.

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