



C.M.P.Nos.19992, 19990, 19862, 19991 and 19989 of 2023

C.M.P.Nos.19992, 19990, 19862, 19991 and 19989 of 2023

in

A.S.No.89 of 2010

R.SUBRAMANIAN,J.

and

N.SENTHILKUMAR,J.

The prayers in each of the petitions are as follows:-

C.M.P.No.19992 of 2023: *To condone the delay of 274 days in filing a petition to bring the LRs of the deceased appellant in A.S.No.89 of 2010.*

C.M.P.No.19990 of 2023: *To set aside the abatement caused due to the death of the sole appellant herein namely Chinnannan in A.S.No.89 of 2010.*

C.M.P.No.19862 of 2023: *To bring the legal representatives of the deceased appellant viz., (1) C.Sampoornma (Wife) and (2) C.Sakthivel (Son) on record and array them as petitioners 2 and 3 in A.S.No.89 of 2010.*

C.M.P.No.19991 of 2023: *To condone the delay of 145 days in filing a petition to set aside the order of abatement in A.S.No.89 of 2010.*

C.M.P.No.19989 of 2023: *To set aside the order of dismissal as abated in A.S.No.89 of 2010 dated 04.11.2022 and restore the same.*



C.M.P.Nos.19992, 19990, 19862, 19991 and 19989 of 2023

WEB COPY

2. The sole appellant in the appeal died on 13.12.2020. The appeal was listed for hearing on 04.11.2022 and on the said date it was dismissed as abated. The legal heirs of the appellant have filed these applications with the above prayers. C.M.P.No.19992 of 2023 is for condonation of delay of 274 days in seeking to set aside the abatement caused by the death of the sole appellant. C.M.P.No.19990 of 2023 is to set aside the abatement caused by the death of the sole appellant and C.M.P.No.19862 of 2023 is to bring on record the petitioners in this petition as the legal representatives of the deceased sole appellant.

3. Mr.S.Kalyanaraman, learned counsel appearing for the respondent has no objection for these applications being ordered. Hence, all these petitions are allowed.

4. There are two other redundant applications which have been filed purportedly at the insistence of the Registry, they are C.M.P.Nos.19989 of 2023 and 19991 of 2023. It is the fundamental law that abatement of an



C.M.P.Nos.19992, 19990, 19862, 19991 and 19989 of 2023

appeal is automatic on the expiry of 90 days from the date of death, the order passed dismissing the appeal as abated will not alter the position.

Therefore the applications to condone the delay in seeking to restore the appeal and to restore the appeal in such cases is wholly unnecessary. These two petitions are dismissed. Once the abatement is set aside by the order of the Court, an appeal that is dismissed on the ground that it has abated will automatically stand restored.

5. Hence, the Registry is directed to carryout amendment in the appeal and post the appeal for final hearing.

(R.S.M., J.) (N.S., J)
17.10.2023

dsa

-



WEB COPY



C.M.P.Nos.19992, 19990, 19862, 19991 and 19989 of 2023

R.SUBRAMANIAN,J.
and
N.SENTHILKUMAR,J.

dsa

C.M.P.Nos.19992, 19990, 19862, 19991 and 19989 of 2023
in
A.S.No.89 of 2010

17.10.2023