



C.M.P.Nos. 19560, 19558 & 19557 of 2023

in

S.A. No. 590 of 2016

T.V. THAMILSELVI, J.

These petitions are filed seeking to condone the delay of 1413 days in setting aside the abatement, to set aside the abatement caused due to the death of sole appellant, and to bring on record the proposed appellants 2 to 6 herein as legal representatives of deceased 1st appellant.

2. Mr.J.Shanmuga Sundara Babu, learned counsel for petitioner/appellant submitted that pending appeal, sole appellant died on 29.05.2019. He would also submit that one of his sons viz., Arivoli married the 5th petitioner herein in the year of 1996 and he died in the year of 2002 , however, they have no issues. He would further submit that after his death, their mother became sick and also due to Covid-19 pandemic, they could not contact their counsel and instruct him to implead them as his legal heirs. Hence, they could not file the petition in time. In view of the same, there is a delay of 1413 days arose and the delay is neither willful nor negligent. Hence, he has filed the above petitions.



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3. Mr.V.K.Rajagoapalan, learned counsel for respondents 1 and 2 appeared and submitted that he has raised strong objections to allow these petitions.

4. Heard both sides.

5. Considering the facts and circumstances and on considering the fact that since the suit was filed seeking for declaration and for permanent injunction, the legal heirs of sole appellant are necessary parties in the suit, in the interest of justice, this Court is inclined to allow all these petitions. The proposed legal representatives of the sole appellant are impleaded as appellants 2 to 6 in the above Second Appeal.

6. The Registry is directed to carry out the necessary amendment in the cause title and post the matter on 18.10.2023.

22.09.2023

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3

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