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A.No.794 and 795 of 2023
in C.S.No.189 of 1922

N.SESHASAYEE.J.,

These applications were taken out for restoring A.Nos.6821 and 6822 of 2010.

2.A.Nos.6821 and 6822 of 2010 are filed to recognize the applicant as the current Manging Trustee (Thatha Elayalwar Chetty). Earlier, through its then trustees, the Trust has filed A.Nos.4078 and 4079 of 2008 for a direction to the respondent, the tenant of the Trust, to surrender possession and also for a direction to pay arrears of property tax. They came to be dismissed for default in 2021 for non prosecution. But some 12 years prior to that, some time in 2009, both the applicants in these applications had died. Since the applicant is currently the Managing Trustee, succeeding to the office consequent to the death of the erstwhile Manging Trustee of the Trust, he has taken out these applications to substitute him. Since they too were dismissed for default, he has taken out these applications for restoration.

3.Learned counsel for the respondent makes a strong objection and argued that

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allowing these applications would tantamount to granting premium to the negligence of the applicant in not prosecuting his applications.

4.This Court considers it only appropriate to allow these applications and does not find the objections raised impressive enough since the respondent is only a tenant. After all, at the end of the day, the interest of the Trust needs to be preserved and this matter cannot be dragged over.

5.These applications are allowed.

09.02.2023

(1/2)

Anu

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