



C.M.P.Nos.2334, 2335 and 2341 of 2023
in S.A.No.1432 of 2007

P.T.ASHA, J

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These petitions have been filed by the petitioners to condone the delay of 593 days in setting aside the abatement caused due to the death of the sole appellant; to set aside the abatement caused due to the death of the sole appellant; and to bring on record the petitioners 1 and 2 and the 2nd respondent as legal representatives of the deceased appellant and as appellants 2 and 3 and the 2nd respondent in the above second appeal.

2. Heard both sides.

3. The reasons for the delay have been set out in paragraph 6 of the affidavit filed in support of these petitions as follows:-

"6. I submit it is just and necessary that we should be brought on record as the legal heirs of the deceased appellant. I submit since my father died in Covid pandemic period we could not come to Chennai and meet our advocate. We did not have his cell number. Therefore, it was only on the second week of September 2022, when we received a letter addressed to my father from his advocate that we got his cell number and contacted him. We were asked to come to Chennai. However, my mother was laid down with jaundice and she had to be treated



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with native treatment. My brother 2nd respondent herein did not cooperate with me. Therefore I could come to Chennai and meet my counsel and sign the necessary papers only on 12.11.2022. Thereafter, these petitions have been prepared and are filed.”

4. A counter has been filed by the respondent stating that reasons have not been given, which flies in the face of paragraph 6 of the affidavit.

5. Therefore, considering the fact that the sufficient reasons have been given in the affidavit filed in support of these petitions, the delay is condoned and the other petitions are allowed. The Registry is directed to carry out necessary amendments and post the second appeal for “final hearing” on 06.03.2023.

6. The appellant is directed to issue notice to the 2nd respondent both through court as well as privately, returnable by 06.03.2023.

08.02.2023

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