



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Friday, the Twenty Eighth day of April Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P.VELMURUGAN

CMP(MD) No.1405 of 2023
in
SA No.916 of 2004

1 LUCAS (DIED) ... 1st Appellant

2 LAZAR

3 FRANCIS

4 LOORDU MARY

5 MARIYA DASAN

6 JOHN ROSE

7 T. LILLY PUSHPAM

8 L. JOHN DIANUS

9 JOHN SHEEBA ... Petitioners /
Appellants 2 to 9

Vs

1 SIVALINGAM (DIED)

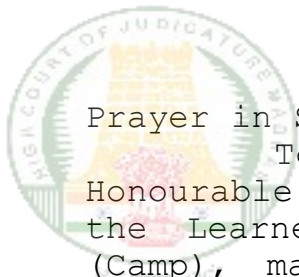
2 PAULIAN ALIAS JOHN PAUL (DIED)

3 S. JACINTHA MARY

4 J.P. JAZZ

5 J.P. BOSE ... Respondents /
Proposed Respondents 7 to 9

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to condone the delay of 139 days in seeking to set aside the abatement of the above Second Appeal due to the death of the 2nd respondent therein.



Prayer in SA No.916 of 2004:

To prethis memorandum of second appeal before this Honourable Court against the judgment and decree dated 23.07.2002 of the Learned First Additional Subordinate Judge, Padmanabhapuram (Camp), made in A.S.No.93 of 1997 on his file, confirming the judgment and decree dated 28.01.1997 of the Learned Additional District Munsif of Padmanabhapuram made in O.S.No.265 of 1993.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.K.N.THAMPI, Advocate for the petitioners and of Mr.P.THIYAGARAJAN, Advocate for Respondents No.3 to 5, the court made the following order:-

The petition is filed to condone the delay of 139 days in filing the petition to set aside the abatement caused due to the death of the second respondent in the Appeal.

2. Heard the learned counsel appearing for the petitioners. Mr.P.Thiyagarajan, learned counsel appears for the proposed respondents 7 to 9.

3. The reasons stated in the accompanying affidavit for codoning the delay of 139 days are not satisfactory. However, in order to give opportunity to the litigants to resolve the dispute on merits, the petition is allowed with cost of Rs.10,000/- (Rupees Ten Thousand only). The petitioners are directed to deposit Rs.10,000/- before the Registry to the credit of C.M.P.(MD)No.1405 of 2023 in S.A.No.916 of 2004 on or before 19.05.2023 and file a Memo to that effect.

4. List the matter on 02.06.2023 'for reporting compliance'.

sd/-

28/04/2023

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/05/2023

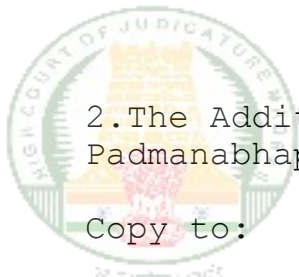
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

MBI

To

To

1.The I Additional Subordinate Judge,
Padmanabhapuram (Camp).



2.The Additional District Munsif,
Padmanabhapuram.

Copy to:

1.The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.

2.The Section Officer,
Accounts Section,
Madurai Bench of Madras High Court, Madurai.

3.The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
CMP (MD) No.1405 of 2023
in
SA No.916 of 2004
Date :28/04/2023

ED/VR/SAR-1 (05/05/2023) 3P 6C