



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

Monday, the Twenty Third day of January Two Thousand and
Twenty Three

WEB COPY

PRESENT

The Hon`ble Mr.Justice S.SOUNTHAR

C.M.P (MD) Nos.2504, 2505 and 2507 of 2020
in
S.A.No.827 of 2002

1 E.V.NAGANATHAN (DIED) ... DECEASED SOLE APPELLANT
IN ALL THE PETITIONS

2 LOKAMATHA

3 JOTHI MUTHU RAMALINGAM

4 KRISHNAMOORTHY

... PETITIONERS 2 TO 4/
PROPOSED APPELLANTS 2 TO 4
(LRs OF THE SOLE APPELLANT)
IN ALL THE PETITIONS

Vs

1 P.INDURANI

2 UKKIRA PANDIYAN

3 N.MUTHURATHINAM

4 NAGAJOTHI

5 DEIVARANI

6 MANIKANDAN

7 VASUKI

8 N.INDURANI

9 GANDHI MEENAL

10 P.PONUCHAMY THEVAR (DIED)

11 A.SIVAGNANAM

12 MURUGESAN



13 NATARAJA THEVAR

14 MAYILVASAGAM

15 T.PANDI

16 PONNUSAMY @ UKKIRAPANDI THEVAR

17 R.KASINATHADURAI

18 DHANALAKSHMI

19 POOMALAI
S/O.PERIYANATHA THEVAR

20 SATHYA MURTHY

21 SANKARA IYER

... RESPONDENTS/RESPONDENTS
IN ALL THE PETITIONS

22 UTHAMARAMAN

23 POOMALAI
D/O.LATE.PONNUSAMY THEVAR

24 NAGU

25 VELLAIMMAL

... RESPONDENTS 22 TO 25/
PROPOSED RESPONDENTS 22 TO 25
(LRs OF 10th RESPONDENT)
IN ALL THE PETITIONS

(RESPONDENTS 12,16,17 AND 19 WERE
DELETED AND ITSELF 21st RESPONDENT
STOOD EX-PARTE BEFORE THE APPELLATE
COURT, HENCE NOTICE MAY BE GIVEN UP)

PRAYER IN CMP(MD).2504/2020:

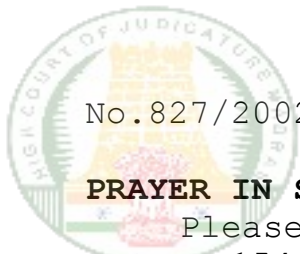
Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to condone the delay of 5928 days in filing the petition for set aside the abatement caused due to the death of the sole appellate in the above Second Appeal No.827/2002.

Prayer in CMP(MD). 2505/ 2020 :

To set aside the abatement caused due to the death of the sole appellate in the above second appeal No.827/2002 in so far as the sole appellate is concerned.

Prayer in CMP(MD). 2507/ 2020 :

To bring on record the petitioners 2 to 4 as legal representative of the deceased E.V.Naganathan the sole appellate and as Appellants 2 to 4 in the above second appeal



No.827/2002.

PRAYER IN SA.No.827/2002:

Pleaded to set aside the judgement and decree made in A.S.No.154/97 on the file of Additional District Judge cum Chief Judicial Magistrate Court, Ramanathapuram dated 22.06.2000 which confirms the judgment and decree made in O.S.No.82/93 on the file of Sub-Court, Ramanathapuram dated 25.03.1996.

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.S.NATARAJAN, Advocate for the petitioners in all the Petitions, the court made the following order:-

It is submitted by the learned counsel for the petitioners that the second appeal filed by the deceased sole appellant was dismissed earlier and a review application was filed by him in Review Application (MD) No.113 of 2011. It is further submitted that the sole appellant died pending review application leaving behind the petitioners 2 to 4 as his legal representatives. The petitioner filed CMP(MD) No.580 of 2005 to accept the cause title in the review application and the same was allowed on 07.09.2011. Thereafter, the review application was allowed and the second appeal is restored to file. Therefore, there is a delay of 5928 days in filing the petition to set aside the abatement caused to the second appeal by the death of the sole appellant.

2. As far as the petition to bring on record the legal representatives of the deceased parties are concerned, the Court has to take liberal view while considering the petition to condone the delay in seeking to set aside the abatement, especially when legal representatives were allowed to prosecute review application as stated above.

3. Therefore, this Court is inclined to take liberal view and these petitions are allowed on condition that the petitioners making a payment of Rs.3,000/- **to the credit of the Chief Justice Relief Fund, payable in Accounts Section of the High Court Registry, Madurai Bench of Madras High Court, Madurai, on or before 13.02.2023.**

sd/-

23/01/2023

/ TRUE COPY /

/01/2023

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



CP
TO

1 THE ADDITIONAL DISTRICT JUDGE CUM
CHIEF JUDICIAL MAGISTRATE COURT,
RAMANATHAPURAM.

2 THE SUBORDINATE JUDGE,
RAMANATHAPURAM.

COPY TO:

THE SECTION OFFICER,
ACCOUNTS SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

C.M.P (MD) Nos.2504, 2505 and
2507 of 2020

in S.A.No.827 of 2002

Date :23/01/2023

SA/VR/SAR.4/09.02.2023/4P/4C