



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Wednesday, the Twelfth day of July Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice P.VELMURUGAN
CMP(MD). No.3831 of 2023

to
CMP(MD) No.3833 of 2023

in
SA(MD) No.175 of 2014

1.Shahitha Barveen

2.Hithayathullah Khan

... Petitioners/Appellants

Vs

1 Shahul Hameed (Died)

2 S.Mohammed Meeran

S/o.Shahul Hameed No.7/1 Ward No.12
Gurukkal Lane Uthamapalayam Town Theni
District.

3 S.Kathija Banu

D/o.Shahul Hameed No.41 South Street Shiek
Abdul Kather Street Sithaiyankottai
Dindigul District.

... Proposed respondents No.2 and 3 / LR's of
the Sole Respondent

Prayer in CMP(MD)3831 of 2023:-

This miscellaneous petition filed under Section 5 of Limitation Act, to condone the delay of 1916 days in filing the petition to set aside the abatement caused due to the death of the sole respondent in SA(MD).No. 175 of 2014 on the file of the Honourable Court and thus render justice.



Prayer in CMP(MD). 3832/ 2023 :

This miscellaneous petition filed under Order 22 Rule 9 of CPC , to Set aside the abatement caused due to the death of the sole respondent in SA(MD).No. 175 of 2014 on the file of the Honourable Court and thus render justice.

Prayer in CMP(MD). 3833/ 2023 :

This miscellaneous petition filed under Order 22 Rule 4 of C.P.C. , to bring on record the respondent 2 and 3 as legal heirs of deceased sole respondent and rank them as respondents No.2 and 3 in SA(MD).No. 175 of 2014 on the file of the Honourable Court and thus render justice.

ORDER:- These Miscellaneous Petitions are coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.S.Rajasekar, for M/s.Lajapathiroy and Associates, Advocate for the Petitioner and of Mr.K.Badurus Zaman, Advocate for third respondent, this Court made the following order:

C.M.P(MD)No.3831 of 2023 is filed by the petitioners/appellants to condone the delay of 1916 days in filing a petition to set aside the abatement caused due to the death of the sole respondent in the appeal.

2. The proposed respondents 2 and 3 were served and they are represented by a counsel.

<https://www.mhc.tn.gov.in/judis>

3. Heard the learned counsel for the petitioners/appellants and the learned counsel for



the proposed respondents. Perused the counter affidavit filed on behalf of the proposed respondents.

4. The reasons stated by the petitioners/appellants for the huge delay are personal inconvenience of the parties and miscommunication between the parties and the counsel. Those are the mere reasons stated as to why the petitioners/appellants could not file the petition in time to bring on record the legal representatives of the deceased sole respondent. Whereas, the proposed respondents have stated in paragraph no.5 of their counter affidavit that the petitioners/appellants are close relatives of the respondents family and they are all residing in the same locality. Therefore, the reasons stated in the accompanying affidavit is not satisfactory. It is settled proposition of law that each day delay has to be explained properly. The length of the delay is not the matter when sufficient cause has been shown by the parties. When there is no sufficient cause, the delay cannot be condoned. After perusal of the affidavit and counter affidavit filed by the petitioners/appellants and the proposed respondents respectively, this Court finds that the petitioner has not satisfied the Court for condonation of huge delay of 1916 days. Therefore, C.M.P(MD)No.3831 of 2023 is dismissed. Consequential petitions in C.M.P(MD)Nos.3832 and 3833 of 2023 are also dismissed.

Sd/-

Assistant Registrar(CS III)

// True Copy //



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To

1) The Subordinate Judge, Uthamapalayam

2) The District Munsif, Uthamapalayam

Copy to:

The Section Officer,

V.R.Section,

Madurai Bench of Madras High Court, Madurai.(2 Copies)

+1 cc to M/s.Lajapathiroy and Associates, SR 34102/2023

ORDER DATED : 12/07/2023

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ORDER

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CMP(MD). No.3831 of 2023

to

CMP(MD) No.3833 of 2023

in

SA(MD) No.175 of 2014

SI(01.08.2023) 4P/ 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.