



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Monday, the Thirty First day of July Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice C. KUMARAPPAN

CMP(MD). No.4947 of 2023
in
SA(MD)No.353 of 2017

1.S.Paulraj(Died)

2.Padmavathi

3.P.Alagarsamy

4.Vijayalakshmi

5.Pechiyammal

6.Rajalakshmi

7.Sundharakumar

8.Meenadevi

... Petitioner 2 to 8 / Proposed Appellants 2 – 8/
Lrs of Sole Appellant

Vs

1 K.Subburaman

2 S.Manimegalai

3 Mohammed Abdullah Alais Naresh

4 K.Chitra

5 M.Jenifer

... Respondent 3 – 5/Proposed Respondent 3- 5/Civil Death Lrs of
Jeyalakshmi



Prayer in CMP(MD) No.4947 of 2023

Petition filed under order 41 Rule 19 of CPC To set aside the order dated 03-04-2023 passed in the above SA and restore the SA(MD).No.353 of 2017 and thus render justice.

Prayer in SA (MD)No.353 of 2017

This Second Appeal filed under section 100 of the Civil Procedure code, against the Judgment and Decree dated 08/08/2016 made in A.S.No.10 of 2014 on the file of the Sub Court, Virudhunagar and reversing the Judgment and Decree dated 19/11/2013 made in O.S.No.210 of 2008 on the file of the District Munsif Virudhunagar.

ORDER:- This Petition 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.A.Sivaji Advocate for the Petitioner and of Mr.M.Kannan Advocate for the 1st and 2nd Respondents, this Court made the following order:

The learned counsel for the petitioners as well as the respondents 1 and 2 are present.

2. This petition has been filed to set aside the order dated 03.04.2023 passed in the above Second Appeal and to restore S.A.(MD) No.353 of 2017 on file.



3. The appeal has been dismissed for default on account of abatement as the appellant did not take any steps to implead the legal heirs of the sole appellant.

4. The legal heirs of the sole appellant has filed an applications to implead them along with an application for condonation of delay to set aside the abatement caused due to the death of the sole appellant, to set aside the abatement and to bring on record the legal heirs of the deceased sole appellant in S.R.Nos.25634, 25636 and 25637 of 2023.

5. Hence, having considered the submissions of the learned counsel for the appellant and being satisfied with the reasons stated in the affidavit filed in support of the applications, this Court is inclined to allow this applications and S.A.(MD) No.353 of 2017 is ordered to be restored on file.

6. Registry is directed to number the applications for impleadment, if they are otherwise in order and list the matter on 22.08.2023.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/08/2023

Sub Assistant Registrar(CS)

TO

1.The Subordinate Judge,
Virudhunagar.



2.The District Munsif
Virudhunagar.

WEB COPY

Copy to:

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

ORDER DATED : 31/07/2023
HEARING DATE : 22/08/2023

=====

ORDER

=====

CMP(MD). No.4947 of 2023
in
SA(MD)No.353 of 2017
Giving direction and etc.
as stated within.

KB(21.08.2023) 4P 4C