



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

Friday, the Seventh day of July Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P.VELMURUGAN

CMP(MD) No.7811 of 2021

IN

SA No.1365 of 1999

1 LOGAMBAL AMMAL (DIED)

2 SUSILA (DIED)

3 BALASARASWATHI (DIED)

4 KALIYAMOORTHY

5 GNANASAMBANTHAM (DIED)

... Petitioners / Appellants

6 RAJMOHAN

7 KANDASAMY

8 ROOBAN

... Petitioners 6 to 8 /
LRS of Deceased 5th Appellant

Vs

1 YASODAI AMMAL (DIED)

2 MARIAPPAN

3 BANUMATHI

4 VIJAYALAKSHMI

5 JAYALAKSHMI

6 JOTHILAKSHMI @ VIMALA

... Respondents 2 to 6 /
LRS of Deceased 1st Respondent

7 LAKSHMI

8 MEENA

9 KANNAN

... Respondents 7 to 9 /
LRS of Rengaraj



10 MALATHI,
11 DEVA PRASAD

... Respondents 10 & 11 /
LRS of Narendran

12 RAVIKUMAR

13 RAMA

14 UMA

... Respondents 12 to 14 /
LRS of Deceased 2nd Appellant

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 2141 days in filing an application to restore the second appeal in S.A.No.1365 of 1999.

Prayer in SA No.1365 of 1999:

To prefer this memorandum of second appeal against the decree and judgement passed by the 1st Additional District Judge cum Principal Sessions Judge, Tiruchirapalli on 30.11.1998 in A.S.No.292 of 1997 reversing the decree and judgement of the District Munsif cum Judicial Magistrate of Lalgudi, passed on 30.07.1997 in O.S.No.456 of 1995.

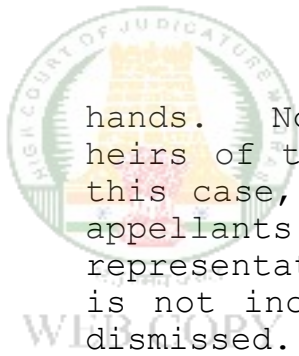
ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.T.LENIN KUMAR, Advocate for the petitioners and of Mr.R.DEVARAJ, Advocate on behalf of the Respondents No.2,3,4 and 5, the court made the following order:-

This application has been filed to condone the delay of 2141 days in filing an application to restore the second appeal.

2. The petitioner is the one of the appellant. The deceased first respondent filed a suit against the petitioners and others. Though the plaintiff is none other than the sister of the first defendant and she died on 10.11.2002, both the first defendant and the plaintiff are the sisters and the petition to bring on record the legal heirs of the sole respondent filed after 12 years stating various reasons, which is not acceptable.

3. Within 90 days from the date of death of the sole respondent, steps have to be taken, but it was not taken. If the steps not taken within 90 days the appeal would be dismissed automatically.

4. The reasons stated in the accompanying affidavit are not satisfied. This application is filed only to protract the execution of the decree. This petitioner has approached the Court without clean



hands. Normally, for taking steps to bring on record the legal heirs of the deceased persons, the Court will take a lenient view, but in this case, knowing fully well the death of the sole respondent, the appellants have not taken any steps to bring on record the legal representatives and proceed with the appeal. Therefore, this Court is not inclined to condone the delay. Hence, this application is dismissed.

sd/-
07/07/2023

/ TRUE COPY /

/07/2023

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

AM

To

1.The I Additional District Judge cum Principal Sessions Judge,
Tiruchirapalli.

2.The District Munsif cum Judicial Magistrate,
Lalgudi.

ORDER
IN
CMP (MD) No.7811 of 2021
IN
SA No.1365 of 1999
Date :07/07/2023

ED/MMS/SAR- (13/07/2023) 3P 3C