



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

Tuesday, the Tenth day of January Two Thousand and Twenty Three

PRESENT

The Hon`ble Mrs.Justice N.MALA

CMP(MD) No.6121 of 2022
IN
AS(MD) No.297 of 2008

MATHIVANAN

... PETITIONER/APPELLANT

Vs

1 DEIVANAI (DIED)

2 RETHINATHAMMAL (DIED)

3 CHINNAYAN

4 SIVABAGYAM (DIED)

5 SARAVANAN (DIED)

6 RAJAMMAL (DIED)

7 THAMBUCHAMI (DIED)

8 SAMIKANNU

... RESPONDENTS/RESPONDENTS

9 R.MEENAKSHI

... 9th RESPONDENT/LRs.OF 2nd RESPONDENT

10 S.PERIYATHANGACHI

11 S.BALASUBRAMANIAN

12 S.KESAVAN

13 S.GUNASEKARAN

14 PALANIAMMAL

... 10 TO 14 RESPONDENTS/
Lrs.OF 5th RESPONDENT

15 V.KANNAN

... 14th RESPONDENT/LRs.OF 6th RESPONDENT

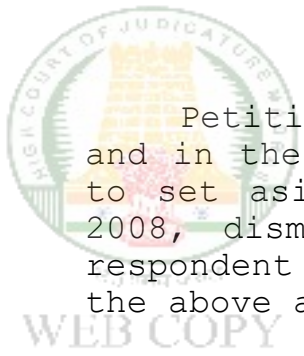
16 VEDHAVALLI

17 T.NATARAJAN

18 T.GOPAL

19 P.SELVARANI

... 16 TO 19 RESPONDENTS/
Lrs.OF 7th RESPONDENT.



Petition filed praying that in the circumstances stated in and in the affidavit filed therewith the High Court may be pleased to set aside the order dated 14.06.2022 made in A.S. No. 297 of 2008, dismissing the first appeal as abated as against the 6th respondent and to restore the first appeal against 6th respondent in the above first appeal in A.S.(MD). No. 297 of 2008.

PRAYER IN AS (MD) .297/2008:

To prefer this Memorandum of Regular Appeal against the judgment and decree of the Learned Sub Judge, Pattukottai dated 14/02/1991 and made in O.S.No.55/1987.

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.P.THIYAGARAJAN, Advocate for the petitioner and of MR.M.R.S.PRABHU, Advocate for the Respondents 3 & 8 & 11 to 14 the court made the following order:-

This petition is filed to set aside the order dated 14.06.2022, made in A.S.No.297 of 2008, dismissing the first appeal as abated as against the 6th respondent and to restore the first appeal against 6th respondent in in A.S.(MD).No.297 of 2008.

2.The learned counsel for the petitioner submits that he has filed 3 applications. One application is to condone the delay of 763 days in filing the petition to set aside the abatement caused due to the death of the 6th respondent in CMP(MD)No.8061 of 2022, and other two unnumbered MPs to set aside the abatement and bring on record the legal heirs of the deceased 6th respondent. The petition in CMP (MD).No.8061 of 2022 was ordered by this Court on 08.12.2022, and the other 2 applications are pending.

3.In view of the fact that the steps have already been taken to implead the legal heirs of 6th respondent, the order in A.S.(MD). No.297 of 2008, dated 14.06.2022 is set aside and the appeal is restored. This Petition is accordingly ordered.

4. Registry is directed to restore the appeal on file and number the petitions in CMP(MD)SRNo.38366 of 2022 and CMP(MD) SRNo.38367 of 2022.

5.Post the matter on 31.01.2023 along with above said CMPs.

sd/-

10/01/2023

/ TRUE COPY /

/01/2023

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



DSS

TO

THE SUBORDINATE JUDGE, PATTUKKOTTAI.

COPY TO:

- 1 THE SUB ASSISTANT REGISTRAR,
A.E.SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 2 THE SECTION OFFICER,
JUDICIAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CMP (MD) No.6121 of 2022
IN
AS (MD) No.297 of 2008
Date :10/01/2023

PKP/MMS/SAR-4/23.01.2023/3P/4C