



C.M.P(MD)No.8040 of 2023

WEB COPY

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

Monday, the Fourth day of September Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

C.M.P(MD)No.8040 of 2023
in
C.M.P(MD)No.8740 of 2022
in
S.A(MD)SR.No.57100 of 2022

1 PANDARA RAJ(DIED)	...1ST APPELLANT
2 CHELLADURAI (DIED)	...2ND APPELLANT
3 PALPANDI	
4 P.DHANALAKSHMI	
5 P.SARO ESWARI	
6 P.SARAVANAKUMAR	
7 P.KUMARAGURU	
8 P.ANANDA SELVAM	
9 C.THANGAM AMMAL	
10 C.MUTHUKANI	
11 C.PON PACKIALAKSHMI	



C.M.P(MD)No.8040 of 2023

12 C.THIRUMANIYAPPAN
WEB COPY

13 C.AATHIYAPPAN

... PETITIONERS 3 TO 13/
PETITIONERS 3 TO 13/
APPELLANTS 3 TO 13/

Vs

ATHISAYAMANI(DIED)

1.A.SOUNDARAPANDI

2 A.KATHREEN

3 A.JAYAPAL

4 A.JAYAKUMAR

5 A.DHANAPAL

6 A.PAUL

7 A.PUSHPARANI

... RESPONDENTS/RESPONDENTS/
RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to restore the above application in CMP(MD).No. 8740 of 2022 in SA(MD).SR.No. 57100 of 2022 which was dismissed by this Honourable Court for Non-Prosecution on 02-06-2023 and pass such further or other orders as this Honourable Court may deem fit and proper in the circumstances of the case and thus render justice.

Prayer in CMP(MD). 8740/ 2022 :

To condone the delay of 3691 in filing the above second appeal and pass such further or other order as this Hon`ble Court may deem fit and proper in the circumstance of the case, and thus render justice.



C.M.P(MD)No.8040 of 2023

Prayer in S.A.(MD).SR.No.57100 of 2022:

Second Appeal is filed under Section 100 of CPC to set aside the judgment and decree passed in A.S.No.135 of 2006 on the file of Subordinate Judge, Tuticorin dated 22.09.2011 reversing the judgment and decree passed in O.S.No.18 of 2004 on the file of learned District Munsif Court, Srivaikuntam dated 16.11.2005.

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.A.MOHAMED HANEEF, Advocate for the petitioner and of MR.V.PANNEER SELVAM, Advocate on behalf of the Respondents 2 to 7, the court made the following order:-

This petition is filed to restore the application in C.M.P(MD)No.8740 of 2022 in S.A(MD)SR.No.57100 of 2022, which was dismissed for non-prosecution on 02.06.2023.

2.The learned counsel for the petitioners and the learned counsel for the respondents 2 to 7 are present. There is no representation for the first respondent in C.M.P(MD)No.8740 of 2022

3.The learned counsel for the respondents 2 to 7 has raised objection in allowing the petition.

4.I have perused the affidavit filed in support of this application and being

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



C.M.P(MD)No.8040 of 2023

WEB COPY

satisfied with the reasons stated in the affidavit and also considering the fact that this petition to restore the application was filed on 26.06.2023 within time, this Court is inclined to allow this petition by imposing cost.

5. Accordingly, this Civil Miscellaneous Petition is allowed on condition that the petitioners shall pay a cost of Rs.2,000/- (Rupees Two Thousand only) to the learned counsel for the respondents 2 to 7 within one week from today, failing which, this petition shall stand automatically dismissed without further reference to this Court. On such deposit being made within the stipulated time, the Registry is directed to restore the application in C.M.P(MD)No.8740 of 2022 in S.A(MD)SR.No.57100 of 2022 on file and list the matter on 19.09.2023.

sd/-
04/09/2023

/ TRUE COPY /

/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSD

TO

1. THE SUB-ORDINATE JUDGE,
THOOTHUKUDI.



C.M.P(MD)No.8040 of 2023

2.THE DISTRICT MUNSIF,
SRIVAIKUNTAM.

COPY TO

1.THE SUB ASSISTANT REGISTRAR(AE)
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

2 THE SECTION OFFICER,
JUDICIAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
C.M.P(MD)No.8040 of 2023
in
C.M.P(MD)No.8740 of 2022
in
S.A(MD)SR.No.57100 of 2022
Date :04/09/2023

RK/JGB (07/09/2023) 5P /5 C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023