



C.M.P.(MD).Nos.9703 and 10102 of 2023

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

Monday, the Fourteenth day of August Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

C.M.P.(MD).Nos.9703 and 10102 of 2023

in

Cros.Obj(MD)No.25 of 2006 and A.S.No.200 of 2004

CMP(MD) No.9703/2023:

1 K.S.G.SUBBARAJ (DIED)

2.S.TAMILSELVAN ALIAS SUBBAREDDY (DIED)

3.SASIKALA DEVI,

4 VALARMATHI DEVI

5 MALARVIZHI DEVI

6 KOTHAISELVI

7 LAKSHMI PRABHA

8 T.KAVITHA

9 S.T.GURUPRASATH

10 S.T.GURUPRASANNA

... PETITIONERS/ APPELLANTS

Vs



C.M.P.(MD).Nos.9703 and 10102 of 2023

1 S.RAMACHANDRAN (DIED)

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2 PAPPAMMAL

... RESPONDENTS/RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to set aside the dismissal order dated 05.07.2022 in Cross Obj.(MD). No.25 of 2006 and restore the same on the file of this Honourable Court and thus render justice.

PRAYER IN CROSS OBJECTION(MD).25/2006:

Cross Objection filed under Order XLI Rule 22 r/w Section 96(1) and (2) of the Code of Civil Procedure, to admit the Cross Objection and pass the decree for the compensation, which was dismissed by the I Addiitonal Subordinate Judge, Dindigul in its judgment and decree dated 08.12.2003 in O.S.No.562 of 1992.

CMP(MD).10102/2023:

1 RAMACHANDRAN (DIED)

... SOLE APPELLANT

2 PAPPAMMAL

... PETITIONER/PROPOSED APPELLANT 2

Vs

1 K.S.G.SUBBARAJ (DIED)

... SOLE RESPONDENT

2.S.TAMILSELVAN ALIAS SUBBA REDDY (DIED)

3.SASIKALA DEVI,

4 VALARMATHI DEVI

5 MALARVIZHI DEVI

6 KOTHAISELVI

7 LAKSHMI PRABHA

... PROPOSED RESPONDENTS 3 TO 7/
LRs OF DECEASED 1st RESPONDENT



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8 S.T.KAVITHA

9 S.T.GURUPRASATH

10 S.T.GURUPRASANNA

... PROPOSED RESPONDENTS 8 TO 10/
LRs OF DECEASED 2nd RESPONDENT

Prayer in CMP(MD). 10102/ 2023 :

To restore the appeal suit.No.200 of 2004 which was dismissing for non prosecution on 21-01-2021 and thus render justice.

PRAYER IN A.S.No.200 of 2004:

Appeal filed under Section 96 of the Code of Civil Procedure praying to set aside the judgment and decree dated 08.12.2003 made in O.S.No.562 of 1992, on the file of the Additional Sub Court, Dindigul.

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.SIVAJI, Advocate for the petitioners in CMP(MD).9703/2023 & for the Respondents in CMP(MD).10102/2023 and of Mr.S.VELLAICHAMY, Advocate on behalf of the Respondents in CMP(MD).9703/2023 & for the Petitions in CMP(MD). 10102/ the court made the following order:-

The above petitions have been filed (i) to set aside the dismissal order dated 05.07.2022 passed in Cros.Obj(MD)No.25 of 2006 and to restore the same on file and (ii) to set aside the order dated 21.01.2021 passed in A.S.No.200 of 2004, which was ordered to be dismissed for non-prosecution, and to restore the same on file.

2. Heard the learned counsel on either side.

3. It is seen from the records that the application to condone the delay in filing

the restoration of the appeal and the cross objection came to be allowed by this Court.



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4. It is seen from the records that this Court, by observing that despite sufficient opportunities being given by this Court, the cross objectors are not ready to argue the cross objection, has dismissed the cross objection.

5. The learned counsel appearing for the petitioners in C.M.P.(MD)No.9703 of 2023 would submit that the learned counsel was very much present in the Court and they have only sought for short pass over.

6. With respect to appeal, considering the reason that the case bundles were returned to the appellant and there was no representation on behalf of the appellant, the appeal suit came to be dismissed.

7. Considering the facts and circumstances and also the reasons assigned, this Court is inclined to restore the appeal as well as the cross objection. Accordingly, these petitions are ordered and the Registry is directed to restore the appeal and the cross objections on file and post the same on 28.08.2023 for final disposal.

sd/-
14/08/2023

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/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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CSM

TO

1 THE I ADDITIONAL SUBORDINATE JUDGE, DINDIGUL.

2 THE ADDITIONAL SUBORDINATE JUDGE, DINDIGUL.

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
C.M.P.(MD).Nos.9703 and 10102 of 2023
in
Cros.Obj(MD)No.25 of 2006 and A.S.No.200 of 2004
Date :14/08/2023

SA/VRS/SAR. /22.08.2023/5P/5C

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