



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Friday, the Twenty Third day of June Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice N.SATHISH KUMAR

CMP(MD) . No.792 of 2023
in
AS(MD) No.168 of 2009

T.D.Rajeshwari (Died)

2. G.R. Prema
3. A.J.Geetha
4 T.R. Durai
5. T.D. Balaji
6. TK.Ravindran
7. T.D.Sumathi
8. T.D.Mani.
9. G.N. Sangamala
(Petitioner 4 to 9 LRS of the deceased 1st Appellant)

... Petitioner

Vs

1 1. K.R.Subramanian (Died),
2 K.S. Surendran
3 K.S. Suriya Prakash,
4 Baby Alias Sakunthala, ... Respondent/Respondent

Prayer CMP(MD) . No.792 of 2023:-

This civil Miscellaneous Petition filed under order 41 , Rule 19 r/w section 151 of Civil Procedure Code To set aside the order dated 13-07-2022 of dismissal of the appeal suit in A.S.No.168 of 2009 for non-prosecution and restore the same to the file for disposal on merits and thus render justice.

Prayer AS(MD) No.168 of 2009

This First Appeal filed under section 96 of the Civil Procedure Code to set aside the Judgment and Decree in respect of the Ex A.5passed will dated 7/11/1984passed in OS.141/2005 dated 18.09.2008 on the file of the FTC No.1 and Additional District and Sessions Court, Madurai,. and decree the above suit as prayed for the appellants 3/7th share with cost and thus render justice.



ORDER:-

This civil Miscellaneous 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 Ms. D. Nallathambi, Advocate for the Petitioner and of Ms. T.R.B.Sivakumar For R1, J. Barathan For the 2nd 3rd respondent(s), this Court made the following order:

This application has been filed to set aside the order dated 13.07.2022 and to restore the A.S.No.168 of 2009.

2. Heard the learned counsel for the petitioners.

3. Considering the reasons assigned in the affidavit filed in support of this petition and the appeal in A.S.No.168 of 2009 also filed by the other side and in order to give fair opportunity to the parties, this petition is ordered and the appeal suit is restored to file.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/07/2023

Sub Assistant Registrar(CS)

TO

1. THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
FASTTRACK COURT NO 1, MADURAI.

Copy to:

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

2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court, Madurai

ORDER DATED : 23/06/2023

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ORDER

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CMP(MD) . No.792 of 2023

in

AS(MD) No.168 of 2009

Giving direction and etc.

as stated within.