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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Tuesday, the Thirty First day of October Two Thousand and Twenty Three

PRESENT

The Hon`ble Mrs.Justice L. VICTORIA GOWRI

CMP(MD). No.12498 of 2022

in

A.S.(MD)NO.138 OF 2013

1. Muthusamy,
2. Perumal
3. Arumugam,
4. Murugan

... Petitioners/ Appellants

Vs

1. Meenakshi Sundaram (Died)
2. Valliammal,
3. S. Arumugam, (Died)
4. Babaji Behera,
5. Sushant Nayak,
6. Gandhimathi,
7. Nagalakshmi,
8. Meenakshi,
9. Revathi

... Respondents 1 to 5

... Respondents 6 to 9/
Proposed Respondents
(Legal heirs of deceased 3rd Respondent)

Prayer :-

This Petition filed Under Order 41 rule 19 of CPC., to set aside the order dated

21/07/2022 dismissing the appeal in AS(MD). No. 138 of 2013 for non-prosecution

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

and restore the same and render justice.



Prayer in A.S.(MD)NO.138 OF 2013:-

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Appeal Suit is filed under Section 96 of the Code of Civil Procedure to set aside the judgment and decree in O.S.No.17 of 2010 dated 08.01.2013 on the file of the learned Principal District Judge, Thoothukudi.

ORDER:- This 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 M/s. G. Prabhu Rajadurai, Advocate for the Petitioners and of Mr. S. Kadarkarai, Advocate for the Respondents 2 and 6 to 9, this Court made the following order:

This petition is filed to set aside the order dated 21.07.2022 passed by this Court in A.S.(MD)No.138 of 2013.

2. Heard both sides.

3. The learned Counsel appearing for the appellant has submitted that he has been filed a memo stating that notice to the respondents 4 and 5 is yet to be served. No relief sought against the respondents 4 and 5. Hence, notice to the respondents 4 and 5 is dispensed with. The said memo is recorded. Registry is directed to carry out the necessary amendments in the cause title.

4. Being satisfied with the reasons stated in the accompanying affidavit, this petition is allowed. Registry is directed to restore the First Appeal.



5. Post the main case on 28.11.2023.

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Sd/-

Assistant Registrar(CS I)

// True Copy //

/11/2023

Sub Assistant Registrar(CS)

TO

The Principal District Judge,
Thoothukudi.

Copy to:

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

ORDER DATED : 31/10/2023

POST ON : 28/11/2023

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ORDER

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CMP(MD). No.12498 of 2022

in

A.S.(MD)NO.138 OF 2013

Giving direction and etc.
as stated within.

<https://www.mca.gov.in/judis> MGL(17.11.2023) 3P 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023