



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

Monday, the Second day of January Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice S.SOUNTHAR

C.M.P.(MD) Nos.1163 to 1165 of 2017
in
S.A.(MD) No.1004 of 2005

1 CHANDRASEKAR (DIED)

2 ANBU GNANAM

3 LILLY RAJAM

4 JOSEPH

5 MICHAEL RAJ

... PETITIONERS/APPELLANTS AND
PROPOSED APPELLANTS 2 TO 5
IN ALL THE PETITIONS

Vs

1 JESUKARAN SALOMAN

2 SEENI VAITHILINGAM

... RESPONDENTS 1 & 2/RESPONDENTS
IN ALL THE PETITIONS

3 J.P.RAMYA RAJAKUMARI

... 3rd RESPONDENT/
PROPOSED 3rd RESPONDENT
IN ALL THE PETITIONS

Prayer in CMP(MD) . 1163/ 2017 :

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to condone the delay of 2334 days in seeking to set aside the abatement caused by the death of Chandrasekar, the Sole Appellant in the above Second Appeal.

Prayer in CMP(MD) . 1164/ 2017 :

To set aside the abatement caused by the death of Chandrasekar, the Sole Appellant in the above Second Appeal.

Prayer in CMP(MD) . 1165/ 2017 :

To bring on record Petitioners 2 to 5 herein who are the Legal Representatives of the deceased Sole Appellant Chandrasekar as Appellants 2 to 5 in the above Second Appeal and the 3rd Respondent



herein as Legal Representative of the deceased Sole Appellant at Chandrasekar as 3rd Respondent in the above Second Appeal.

PRAYER IN SA(MD) .1004/2005:

Pleaded to second appeal against the judgment and decree of the Learned Additional Subordinate Judge, Tenkasi dated 28-04-2005 in A.S.No.41 of 2004 reversing the Judgment and decree of the Learned Principal District Munsif, Tenkasi dated 16-04-2004 in O.S.No.58 of 2004.

COMMON ORDER : These petitions coming up for orders on this day, upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of M/S.J.ASHOK, Advocate for the petitioner in all the Petitions and of Mr.T.A.EBENAZER, Advocate on behalf of the 1st Respondent in all the Petitions, the court made the following order:-

Petitioners 2 to 5 already filed M.P(MD) Nos.1 to 3 of 2012 with a prayer to bring them on record as legal representatives of the deceased sole appellant Chandrasekar, to set aside the abatement and to condone the delay in filing the petition to set aside the abatement.

2. The said petitions were dismissed by this Court by order dated 14.11.2016 on the ground that the wife of said Chandrasekar viz., Ramya is alive.

3. The present petitions are filed by the very same petitioners seeking to record them as appellants 2 to 5 and the wife of the deceased sole appellant as the 3rd respondent in the appeal. The petitioners herein cannot prosecute the appeal on behalf of the deceased sole appellant, as they are not entitled to succeed to the estate of the deceased, while the Class-I heir is alive. Therefore, they are not entitled to come on record as appellants 2 to 5. As far as the 3rd respondent, wife of the sole appellant is concerned, though she is served in these petitions, there is no representation for her. The present petitions are not filed to bring her as one of the appellants to enable her to prosecute the appeal. The petitioners want to implead her as a respondent in the second appeal. As stated earlier, the petitioners are not entitled to prosecute the appeal on behalf of the sole appellant and hence, the present petitions are dismissed.

sd/-

02/01/2023

/ TRUE COPY /

/01/2023

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



S.A.(MD)



05

ABR
TO

1. THE ADDITIONAL SUBORDINATE JUDGE,
TENKASI.

2. THE PRINCIPAL DISTRICT MUNSIF,
TENKASI.

+3. C.C. to M/S.J.ASHOK Advocate SR.No.84,85 & 86

ORDER

IN

C.M.P. (MD) Nos.1163 to 1165 of 2017
in

S.A. (MD) No.1004 of 2005

Date :02/01/2023

SA/SSS/SAR.3/05.01.2023/3P/6C