



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

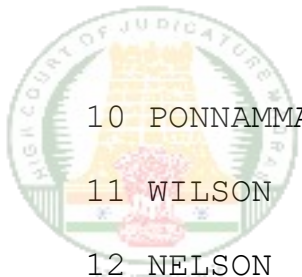
Monday, the Third day of July Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P.VELMURUGAN

CMP(MD) No.10649 of 2022
IN
SA.No.373 of 1997

1 Y.CHINNATHANGAM (DIED),	... 1 st APPELLANT
2 MARY STELLA ROSELIN	
3 JAMES CARMEL PAULRAJ (DIED)	... 5 th APPELLANT
4 DAISY METILDA	
5 S.JOSEPH SELVARAJ	
6 DELPHINE QUORETTE	... PETITIONERS 2 & 4 TO 6/ APPELLANTS 4 & 6 TO 8
7 G.VERONIKAM	
8 BRINDHA MERIN	... PETITIONERS 7 & 8/ APPELLANTS 9 & 10 (LRS OF 5 th APPELLANT)
Vs	
1 MARY ANGEL,	
2 MARIAMMAL	... RESPONDENTS 1 & 2/APPELLANTS 2 & 3
3 Y.THERESAMMAL	
4 A.SWAMIDHAS	
5 STHANISLAUS	
6 MARIA THANGAM	... RESPONDENTS 3-6/RESPONDENTS 1-4
7 S.VINCENT RAJ (DIED)	... 5 th RESPONDENT
8 S.ARULDHASAN (DIED)	... 6 th RESPONDENT
9 MARIA PUSHPAM	



10 PONNAMMAL

11 WILSON

12 NELSON

13 ALSON SABHITHA RAJ

14 CELESTI BAI

... RESPONDENTS 9-14/RESPONDENTS 7-12

15 S.MARY ALLBY

16 V.PRAKASH RAJ

17 CAROL JOSEPH RAJ

18 BENITTA MARY REDLEENE,

... RESPONDENTS 15-18/
RESPONDENTS 13-16(LRs OF 5th RESPONDENT)

19 NIRMALA,

20 A.GEETHA,

21 A.PREMA,

... RESPONDENTS 19-21/
PROPOSED RESPONDENTS 19-21
(LRs OF 6th RESPONDENT)

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 4890 days in filing the application to set aside the abatement caused due to the death of the 6th respondent in the above Second Appeal and thus render justice.

PRAYER IN SA.No.373/1997:

To prefer this Memorandum of grounds of Second Appeal before this Hon'ble Court against the judgment and decree of learned Principal District Judge, Kanyakumari District at Nagercoil in A.S.No.18 of 1993 and A.S.No.20 of 1993 dated 15.12.95 on the file of Subordinate Judge, Padmnabhapuram pursuant to the judgement and decree in O.S.No.43 of 1985 dated 27.11.1992.

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.N.RAHAMADULLAH, Advocate for the petitioners, the court made the following order:-

This petition has been filed to condone the delay of 4890 days in filing the application to set aside the abatement caused due to the death of the sixth respondent in the second appeal.



2. On 28.04.2023, Mr.C.Vakeeswaran, learned counsel has given an undertaking to file vakalat for R20. Subsequently, he was not filed any vakalat.

3. The learned counsel appearing for the petitioners would submit that notice was not served and even the private notice also returned with an endorsement 'unclaimed'. He has also obtained the track consignment report from the Department concerned and filed before this Court, which shows that the notice was properly addressed and the same was also intimated and subsequently, it was not claimed by the addressee. Therefore, R20 has aware of the proceedings pending before this Court and it is held to be deemed service. Registry is directed to print the name of R20.

4. Though the reasons assigned in the affidavit are not satisfied, however, in order to give an opportunity to the appellants to prosecute the appeal as against the proposed respondents, the delay is condoned and this petition is ordered, on payment of cost of Rs.48,000/- (Rupees Forty Eight Thousand only) to the credit of C.M.P.(MD).No.10649 of 2022 before the Registry on or before 17.07.2023.

5. List the matter on 19.07.2023 for reporting compliance.

sd/-

03/07/2023

/ TRUE COPY /

/07/2023

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

AKV

TO

1 THE PRINCIPAL DISTRICT JUDGE,
KANYAKUMARI DISTRICT AT NAGERCOIL

2 THE SUBORDINATE JUDGE, PADMNABHAPURAM

COPY TO:

1 THE REGISTRAR (JUDICIAL),
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

2 THE SUB ASSISTANT REGISTRAR,
A.E.SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



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

4 THE SECTION OFFICER,
ACCOUNTS SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to M/S.N. RAHAMADULLAH Advocate SR.No.10139 (I)
Dt.04/07/2023.

ORDER

IN

CMP (MD) No.10649 of 2022

IN

SA.No.373 of 1997

Date :03/07/2023

SA/SAR. /08.07.2023/4P/8C