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M.P(MD)No.1 of 2011
in
S.A.No.2111 of 2002

P.VELMURUGAN,J

This application has been filed to condone the delay of 1501 days in filing the petition to restore the petition to bring on record the legal representatives of the deceased sole respondent in the above second appeal in M.P(MD)No.1 of 2006.

2. Originally, the petitioner has filed a petition in M.P(MD)No.1 of 2006 to bring on record the respondents 1 to 4 as the legal heirs of the deceased sole respondent and rank them as respondents 2 to 5 in the second appeal. In that application, notice was ordered on 12.10.2006, but the petitioner did not pay the batta, therefore, the said petition was dismissed for default on 27.04.2007. Thereafter, the petitioner has filed the present petition in M.P(MD)No.1 of 2011 to restore the M.P(MD)No. 1 of 2006 with the delay of 1501 days.

3. Heard the learned counsel appearing for the petitioner and the respondents. The respondents filed counter.



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4. Admittedly, sole respondent in the appeal died on 11.08.2006 itself . Though the petitioner has filed the petition to implead the legal representatives of the deceased in time, but however, it is the duty of the petitioner to pay the batta to the proposed respondents, he knew very well about the death of the sole respondent, but he has not paid the batta. Even for four years he did not take any steps to retore the petition, but he has filed a petition only in the year 2011. The reasons stated in the accompanying affidavit is not satisfied since the petition in M.P(MD)No. 1 of 2006 was dismissed for non-payment of batta. The petitioner very well aware of the dismissal, but he did not take any steps till 2011 and he has filed a petition with delay of 1501 days. Therefore, the explanation given by the petitioner is not acceptable. Hence, this application is dismissed.

04.07.2023

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M.P(MD)No.1 of 2011
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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.07.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

S.A.No.2111 of 2002

and

C.M.P.Nos.1466 & 13086 of 2003 & 3676 of 2005

and

M.P(MD)No.1 of 2010

1.Sasikumari Thangachi

2.Santha Thangachi

3.Balakrishnan Nair

... Appellants

Vs.

Nagamani Nadar

...Respondent

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, against the judgment and decree, dated 10.04.2002 passed by the Sub-Court, Padmanabhapuram in A.S.No.62 of 1981 confirming the judgment and decree, dated 10.04.1980 passed by the Principal District Munsif, Padmanabhapuram in O.S.No.511 of 1979.

For Appellant : Mr.P.Thiagarajan

For Respondent : Mr.K.N.Thambi



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J U D G M E N T

It is seen from the records that the sole respondent died on 11.08.2006. The appellants have filed the petition in M.P(MD)No.1 of 2006 to bring on record the legal representatives of the deceased sole respondent, but they have not paid the batta, therefore, that petition was dismissed on 27.04.2007. Thereafter, they have filed a petition in M.P(MD)No.1 of 2011 to retore the M.P(MD)No.1 of 2006 with the delay of 1501 days. When the M.P(MD)No.1 of 2011 taken up for hearing today I.e., on 04.07.2023, this Court dismissed the said petition on the ground that the reasons stated in the accompanying affidavit are not satisfied.

2. In view of the above, the second appeal is dismissed as abated since sole respondent died steps not taken. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No

Speaking Order : Yes / No
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04.07.2023



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To

1. The Sub-Court,
Padmanabhapuram.
2. The Principal District Munsif,
Padmanabhapuram.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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P.VELMURUGAN, J.

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S.A.No.2111 of 2002

04.07.2023