



CMP(MD) No.1539 of 2023

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

Thursday, the Eleventh day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN
and
The Hon`ble Mr.Justice C.KUMARAPPAN

CMP(MD) No.1539 of 2023
IN
AS(MD) No.173 of 2011

THENAMMAI ACHI(DIED)

... 1st APPELLANT

1 DEIVANAI ACHI,

... 1st PETITIONER/2nd APPELLANT

2 SUBRAMANIYAN

3 VEERAPPAN

4 YEGAPPAN

... PETITIONERS 2 TO 4/ APPELLANTS 3 TO 5/
(LEGAL HEIRS OF 1st APPELLANT)

Vs

1 RAMA.KAMALA

2 RAMA.RAMESH

3 RAMA.VASANTHI

4 RAJESWARI

5 INDIRA

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



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6 ANJESWARI

7 TAMILARASAN

8 MOHANRAJA

MUTHUVEERAPPAN (DIED)

9 MEENAKSHI

10 THENMOZHI

11 MALAR @ MALARVIZHI

12 THIRUMALAI

13 LAKSHMANAN @ KARUPPAIAH

... RESPONDENTS 1 TO 13/
RESPONDENTS 1 TO 13

Civil Miscellaneous Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to set aside the order dated 04-07-2018 and restore the A.S.No.173/2011 on file in respect of 3rd respondent and thus render justice.

Prayer in AS(MD). 173/ 2011 :

Pleased to set aside the order passed in O.S.No.115 of 2004 dated 30.07.2010 on the file of the Principal District Judge, Pudukkottai and allowing this 1st appeal.

ORDER : This Civil Miscellaneous 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.K.P.NARAYANAKUMAR, Advocate for the petitioner and of Mr.C.MAHADEVAN, Advocate on behalf of the Respondents No.1 & 2, the court made the following order:-

This application is filed seeking to set aside the order of dismissal made in



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A.S.No.173 of 2011, dated 04.07.2018, as against the third respondent herein.

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2.For non-prosecution of the third respondent, the appeal was dismissed on 04.07.2018 as against R3. The appellants have taken out an application to set aside the order of dismissal as against the third respondent. On notice, third respondent has entered appearance through counsel, incidentally, who is the learned counsel for the other contesting respondents.

3.Taking note of the fact that the appeal has arisen out of a partition suit and the third respondent is a necessary party to the appeal, no prejudice will be caused to either side in allowing the application to set aside the dismissal order and restore the appeal as against the third respondent.

4.Hence the application is allowed and the appeal is restored to file, as against the third respondent.

sd/-
11/01/2024

/ TRUE COPY /

/02/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.



CMP(MD) No.1539 of 2023

VSN

TO

THE PRINCIPAL DISTRICT JUDGE,
PUDUKKOTTAI.

COPY TO:

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

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

ORDER IN
CMP(MD) No.1539 of 2023
IN
AS(MD) No.173 of 2011
Date :11/01/2024

SA/JGB/SAR. /02.02.2024/4P/4C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.