



CMP(MD) No.1742 of 2024

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

Wednesday, the Fifth day of June Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice S.SOUNTHAR

C.M.P.(MD)Nos.1742 to 1744 of 2024
in
S.A.(MD)No.1126 of 2005

KULITHALAI MUNICIPALITY
REP.BY ITS COMMISSIONER,
BAZAR STREET,
KULITHALAI,
KARUR DISTRICT.

... PETITIONER/ APPELLANT

Vs

1 R.JAYALAKSHMI (DIED)

... DECEASED/SOLE RESPONDENT

2 S.JAYAVEL

... 2ND RESPONDENT/PROPOSED RESPONDENT

Prayer in CMP(MD).1742/2024 :

To condone the delay of 2109 days in filing the petition to set aside the abatement caused due to the death of the sole respondent in the SA(MD) No.1126 of 2005 on the file of this Honourable Court.

Prayer in CMP(MD). 1743/ 2024 :

To set aside the abatement caused due to the death of the sole respondent in the SA(MD) No.1126 of 2005 on the file of this Honourable Court.

Prayer in CMP(MD). 1744/ 2024 :

To bring on record proposed 2nd respondent as legal representative of the deceased sole respondent and rank him as the 2nd respondent in the SA(MD) No.1126 of 2005 on the file of this Honourable Court.



CMP(MD) No.1742 of 2024

Prayer in SA(MD).1126/2005 :

To prefer this memorandum of Grounds of Second Appeal against the Judgment and Decree of the Subordinate Judges Court, at Kulithalai, dated 28.11.2003 in A.S.24 of 2003 confirming the Judgment and Decree of the Learned District Munsif, Kulithalai, dated 11.12.2002 in O.S.239 of 1999.

COMMON ORDER : These Civil Miscellaneous Petitions coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.AN.RAMANATHAN, Advocate for the petitioner and of MR.G.MANIKANDAN, Advocate on behalf of the Respondents, the court made the following order:-

These petitions have been filed to bring on record the legal representatives of the deceased sole respondent along with the petition to set aside the abatement and condone the delay of 2109 days in filing the set aside application.

2. In the affidavit filed in support of the condone delay application, it was stated by the petitioner that due to the administrative reasons, the petitioner could not file application to bring on record the legal representatives of the deceased sole respondent in time.

3. These applications are opposed by the contesting second respondent by filing counter. It is the case of the second respondent that the deceased sole respondent Jeyalakshmi died on 15.12.2015 and the fact of death of the respondent was registered with the petitioner Municipality as early as 01.02.2016 and hence, the petitioner was aware of the fact of death of sole respondent as early as 2016.

Therefore, the reasons assigned by the petitioner cannot be accepted.



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4. Merely because the death of sole respondent was registered with the petitioner Municipality under the provisions of the Registration of Births and Deaths Act, 1969, we cannot assume that the concerned Officer of the Municipality dealing with the legal matters could have been intimated about the death of the sole respondent. Therefore, the reason mentioned by the respondent for opposing the condone delay petition is not sound and the same is not acceptable to this Court.

5. Taking into consideration the total circumstances of the case and the interest of justice, this Court is inclined to take liberal view in considering the condone delay application. Accordingly, all these petitions are allowed on condition, the petitioner shall pay a sum of Rs.1,000/- (Rupees Thousand only) to the Chief Justice Relief Fund, within a period of two weeks from today, failing which the petitions shall stand automatically dismissed.

6. In case of compliance of the order, Registry is directed to list the second appeal for final disposal on 21.06.2024.

sd/-
05/06/2024

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/06/2024
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

vsm



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TO

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1 THE SUBORDINATE JUDGE, KULITHALAI.
2 THE DISTRICT MUNSIF, KULITHALAI.

COPY TO

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

ORDER

IN

C.M.P.(MD)Nos.1742 to 1744 of 2024

in

S.A.(MD)No.1126 of 2005

Date :05/06/2024

RS/GS/SAR-(11.06.2024) 4P 4C

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