



MP(MD) No.1 of 2015

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

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

PRESENT

The Hon`ble Mrs.Justice L. VICTORIA GOWRI

CMP(MD) Nos.7414, 7418, 7419 and 7421 of 2023

in

MP(MD) No.1 of 2015

in

REV.APCL(MD) SR No.20253 of 2015

1 V.ALAGARSAMY

2 V.BALARAMAN

3 V.JELENDRAN

... Petitioners / Petitioner / Petitioners

Vs

1 G.GOPALSAMY (DIED)

... 1st Respondent / 1st Respondent

2 S.SUKUMAR

3 VANAJA

4 MINOR AJITHA

5 MINOR AJITHKUMAR

(Minor respondents 4 & 5 are
represented by their mother and 3rd
respondent herein)

6 SAROJA

7 MINOR PACKIALAKSHMI



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8 MINOR NAGENDRAN

(Minor respondents 7 & 8 are represented by their mother and 6th respondent herein)

9 S.SELVI

10 R.G.PERUMAL (DIED)

... 10th Respondent / 10th Respondent

11 SENREYAPERUMAL

12 RUKUMANI

13 SUBBULAKSHMI

14 PAPPAMMAL

15 VAIRAMANI

16 V.POUNRAJ

... Respondents 2 to 9 & 11 to 16 /
Respondents 2 to 9 & 11 to 16 /
Respondents 2 to 9 & 11 to 16

17 PARANIVASAKI

18 GOPALAKRISHNAN

19 SRIDHARAN

20 NAGARAJAN

* 21 LATHA MANGESWARI

(Name of the respondent No.21 amended vide Court order dated 18.08.2023 made in CMP(MD) No.10110 of 2023 in Rev.Aplc.(MD) SR No.20253 of 2015)

22 DHANALAKSHMI

... Respondents 17 to 22 /
Proposed Respondents 17 to 22 /
Proposed Respondents 17 to 22 /
Legal heirs of Respondent No.1 in all petitions



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W 23 BACKIYAM

... Respondent No.23 /
Proposed Respondent No.23 /
Proposed Respondent No.23 /
Legal heir of the 10th Respondent
in CMP(MD) No.7419 of 2024

Prayer in CMP(MD). 7414/ 2023 :

To condone the delay of 1653 days in filing petition to set aside the abatement caused due to death of 1st respondent in M.P(MD) No.1 of 2015 in Review.S.R(MD) No.20253 of 2015.

Prayer in CMP(MD). 7418/ 2023 :

To pass suitable orders to set aside of the abatement caused due to the death of the 1st respondent in M.P(MD) No.1 of 2015 in Review.S.R.(MD) No.20253 of 2015.

Prayer in CMP(MD). 7419/ 2023 :

To bring on record the LR of the 10th respondent shown as proposed respondent 23rd as respondent 23rd in M.P(MD) No.1 of 2015 in Review S.R. (MD) No.20253 of 2015.

Prayer in CMP(MD). 7421/ 2023 :

To bring on record the LR of the 1st respondent shown as proposed respondents 17 to 22 respondents 17 to 22 in M.P(MD) No.1 of 2015 in Review S.R.(MD) No.20253 of 2015.

Prayer in MP(MD) No.1 of 2015 in REV. APLC(MD) SR No.20253 of 2015:

To condone the delay of 36 days in filing the review petition against the order dated 23/012/2014 made in CMA (MD) NO. 1637 of 2010.

Prayer in REV.APLC(MD) SR No.20253 of 2015:

To review the order passed in CMA(MD) No.1637 of 2010 dated 23.12.2014.



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Prayer in CMA(MD). 1637/ 2010 :

To set aside the Judgement and Decree dated 24.09.2010 passed in A.S.No.25/2006 on the file of the Additional District and Sessions Judge, Fast Track Court, Periyakulam, remanding back the judgement and decree dated 20.01.2004 passed in O.S.No.152/1997 on the file of Subordinate Court, Periyakulam and allow the Civil Miscellaneous Appeal and thus render justice.

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.V.MEENAKSHI SUNDARAM, Advocate for M/S.D.RAJKUMAR, Advocate for the petitioners and of Mr.R.R.KANNAN, Advocate on behalf of the Respondent Nos.2 to 9, 11 to 16, the Court made the following order:-

Reserved On : 20.03.2024

Delivered On : 19.06.2024

C.M.P.(MD)No.7414 of 2023 has been filed seeking to condone the delay of 1653 days in filing the petition to set aside the abatement caused due to the death of the first respondent in M.P.(MD)No.1 of 2015 in Rev.Aplc.(MD) No.SR20253 of 2015.

2.The learned counsel appearing for the petitioner submitted that the first respondent filed O.S.No.152 of 1997 on the file of the learned Subordinate Judge, at Periyakulam seeking relief of partition and separate possession and accordingly, the learned Trial Court decreed the suit and the preliminary



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decree was granted for one third share to the plaintiff. Aggrieved by the same, the petitioner and others preferred an appeal in A.S.No.25 of 2006 on the file of the learned Additional District and Sessions Judge, Fast Track Court, Periyakulam and the Appellate Court was pleased to partly allow the Appeal and set aside the decree for partition and separate possession with regard to item No.19. Following which, the appellants in the appeal before the first Appellate Court were permitted to adduce evidence with reference to sale deed dated 21.05.2008 and cancellation of sale deed dated 02.11.2007. To conduct further enquiry, the said Appeal was remanded back to the learned Subordinate Judge, Periyakulam. Aggrieved by the order of remand, the first respondent has filed a Civil Miscellaneous Appeal in C.M.A.(MD).No.1637 of 2010 before this Court and this Court was pleased to set aside the order passed by the First Appellate Court, thereby restoring the order passed by the learned Trial Court by its order dated 23.12.2014.

3.Against the said order, the petitioner has filed a Review Application in Review Application (MD)No.SR20253 of 2015 along with Section 5 Application in M.P.(MD)No.1 of 2015 to condone the delay of 36 days in filing the review



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application. During the pendency of the aforesaid Civil Miscellaneous Petition, the first respondent namely Gopalasamy, died on 13.11.2018. The first respondent Gopalasamy was survived by Paranivasaki, his wife and sons namely Gopalakrishnan, Sridharan, Nagarajan, daughters Lata Mangeshwari and Dhanalakshmi. Due to the delay caused by the family members of the deceased first respondent in furnishing the details of the legal heirs of the deceased to the petitioner, a delay of 1653 days has have been caused in filing the petition to set aside the abatement caused due to the death of the first respondent in M.P.(MD)No.1 of 2015 in Review Application(MD)No.SR20253 of 2015.

4. Being satisfied by the reasons substantiated by the learned counsel for the petitioner, this Court hereby condones the delay of 1653 days on the condition of payment of a cost of Rs.3,000/- (Rupees Three Thousand only) to the credit of the "District Siddha Medical Officer, CCRI, Periyakulam" (payable in Account No.10767823177, SBI, Periyakulam) within a period of 2 weeks from the date of receipt of copy of this order.

5. Accordingly, C.M.P.(MD)No.7414 of 2023 is allowed. C.M.P.(MD)



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No.7418 and 7421 of 2023 are filed to bring the legal heirs of the first respondent Gopalasamy as proposed respondents 17 to 22 and C.M.P.(MD) No.7419 of 2023 is filed to bring the legal heir of the deceased Ponraj, the 10th respondent as proposed 23th respondent. Consequently, C.M.P.(MD)Nos.7418, 7419 and 7421 of 2023 are allowed. The Registry is directed to make necessary amendments.

sd/-
19/06/2024

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/07/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

MRN

To

1.The Additional District and Sessions Judge,
Fast Track Court,
Periyakulam.

2.The Subordinate Judge,
Periyakulam.



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Copy to:

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1.The District Siddha Medical Officer,
CCRI, Periyakulam.

2.The Sub Assistant Registrar,
AE Section,
Madurai Bench of Madras High Court, Madurai.

3.The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court, Madurai.

+6CC to M/s.R.R.KANNAN, Advocate, SR No.28596(F), dated 20.06.2024

+1CC to M/s.I.VELPRADEEP, Advocate SR No.28683(F), dated 20.06.2024

ORDER

IN

CMP(MD) Nos.7414, 7418, 7419 and 7421 of 2023

in

MP(MD) No.1 of 2015

in

REV.APCL(MD) SR No.20253 of 2015

Date :19/06/2024

ED/ GS /SAR- (29/07/2024) 8P / 13C

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