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C.M.A.No.3048 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3048 of 2021

D.Annammal (Died)
D.Sekar

... Appellant

Vs.

A.Emimal Grace

... Respondent

Prayer:

Civil Miscellaneous Appeal filed under Order 43 Rule 1 of the Civil Procedure Code, to set aside the order of abatement in O.S.No.2437 of 2019 dated 29.07.2019 thereby bring on record the appellant in the place of deceased plaintiff.

For Appellant : M/s.R.Sundarrajan

J U D G M E N T

This appeal has been filed against the order dated 29.07.2019 made in O.S.No.2437 of 2019 on the file of the V Additional Judge, City Civil Court, Chennai.



C.M.A.No.3048 of 2021

WEB COPY

2.The learned counsel appearing for the appellant submitted that the appellant's mother Annammal filed suit in C.S.No.767 of 2000 before this Court and the said suit was transferred to the file of the V Additional City Civil Court at Chennai and re-numbered as O.S.No.2437 of 2019 and during the pendency of the suit in O.S.No.2437 of 2019, the said Annammal died and the suit was dismissed as abated. Challenging the same, the appellant has filed this appeal.

3.The learned counsel appearing for the appellant submitted that the appropriate remedy available to the appellant is to file petition seeking to set aside abatement, bring on record the L.Rs. of the plaintiff/ Annammal, before the trial Court and prayed that this Court may permit the appellant to file appropriate application before the trial Court and may exclude the period during which this appeal was pending before this Court for the purpose of limitation.

4.In view of the above, the civil miscellaneous appeal is disposed of with liberty to the appellant to file appropriate application before the trial Court in the manner known to law. The period during which this appeal was pending before this Court is excluded for the purpose of



C.M.A.No.3048 of 2021

limitation. If any such application is filed by the appellant, the trial Court shall consider the same and pass appropriate orders on merits and in accordance with law.

5.The civil miscellaneous appeal is disposed of. No costs.

31.01.2025

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The V Additional City Civil Court at Chennai.



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C.M.A.No.3048 of 2021

M.DHANDAPANI,J.
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C.M.A.No.3048 of 2021

31.01.2025