



C.M.P.Nos.26987, 26995 & 26999 of 2023 in
S.A.No.477 of 2011

WEB COPY **C.V.KARTHIKEYAN, J.**

These Petitions have been filed to condone the delay of 3701 days in seeking to set aside the abatement caused by the death of the appellant viz., S.R.Dominic; to set aside the abatement caused by the death of the appellant and to bring on record the proposed petitioner who is the legal heir of the deceased appellant as the second appellant.

2. Objections had been raised on behalf of the respondents that the proposed petitioner is not the only surviving legal heir of S.R.Dominic, but there are two other brothers and two other sisters. It is contended that all the brothers and sisters should also be impleaded as appellants, giving them the right to prosecute the appeal.

3. However, the learned counsel for the petitioner contended that among the family members / brothers and sisters, there has been a partition and the subject property has been allotted to the petitioner herein and further contended that the petitioner alone has a right to prosecute the Appeal further.

4. The impleading petition had however been filed under Order XXII Rule 3 of CPC., and not under Order XXII Rule 10 of CPC. But, mentioning of wrong provision would not be fatal. Since it is contended that the subject property belongs to the petitioner herein, I would allow these Petitions.



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C.V.KARTHIKEYAN, J.

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5. Accordingly, these Petitions are allowed. The Registry is directed to carry out the necessary amendment in the cause title of the Second Appeal reflecting the death of the sole appellant and bringing on record the petitioner herein as the second appellant to prosecute the Appeal further.

10.07.2025

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