



CMP(MD) NO. 3540 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10-04-2026**

CORAM

THE HONOURABLE MR JUSTICE P.VADAMALAI

CMP(MD) NO. 3540 of 2026

in

AS(MD) NO. 113 of 2009

1.Minor.B.Madhu Priya

2.Minor. Lathika Sri

(Minor Petitioners are rep.
by their next friend and
natural Guardian their
Mother Mariammal)

Petitioner(s)

Vs

1.Muthumuniyandi (Died)

2.V.Balakrishnan

3.M.Ponmari

4.M.Muniarajan

5.M.Vinoth

(Respondents 3 to 5 are
brought on record as LR's of
the deceased 1st Respondent
vide court order dated
10.07.2025 made in

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CMP(MD) Nos.9268, 9270,
and 9271 of 2025 in
AS(MD)No.113 of 2009 and
also the consequential order
dated 01.08.2025 by KKRKJ)

Respondent(s)

For Petitioner(s):

Mr.I.Velpradeep,
Advocate

For Respondent(s):

Mr.B.Ponnupandi,
Advocate for R3 to R5

R2 – No Appearance

R1 – Died

Prayer : Civil Miscellaneous Petition is filed under Order 41 Rule 19 of CPC to set aside the order of dismissal for default passed in the above A.S.(MD) No.113 of 2009 dated 05.08.2022 and restore the same.

ORDER

This Civil Miscellaneous Petition has been filed to set aside the order of dismissal for non-prosecution passed in Appeal Suit in A.S. (MD)No.113 of 2009 dated 05.08.2022 and to restore the same.

2. Heard the learned counsel appearing on either side and perused the affidavit filed in support of this petition.



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3. The learned counsel for the petitioners submitted that the delay of 815 days in filing the present restoration petition had already been condoned by this Court on 09.03.2025 in C.M.P.(MD)No.17449 of 2024 in A.S.(MD)No.113 of 2009.

4. The learned counsel for respondent Nos.3 to 5 has not raised any serious objection to this petition.

5. The name of the 2nd respondent has been printed in the cause list.

6. Being satisfied with the reasons stated in the affidavit, and also considering the fact that this is only a consequential petition, this Civil Miscellaneous Petition is allowed.

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Note : *The Registry is directed to restore the Appeal Suit in A.S.(MD) No.113 of 2009 and list the same **after three weeks**.*

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P.VADAMALAI, J.

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in
AS(MD) NO. 113 of 2009**

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