

SECTION XII

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

INTERLOCUTORY APPLICATION NO. _____

(Application for substitution to bring on record the
Legal Representatives of deceased Respondent No. 1)

WITH

INTERLOCUTORY APPLICATION NO. _____

(Application for condonation of delay in filing
substitution application and setting aside abatement in
respect of respondent no. 1)

WITH

INTERLOCUTORY APPLICATION NO. _____

(Application for substitution of legal heir of deceased
Respondent Nos. 4, 6 and 8)

WITH

INTERLOCUTORY APPLICATION NO. _____

(Application for condonation of delay in filing
substitution application and for setting aside abatement)

IN

PETITION FOR SPECIAL LEAVE TO APPEAL(CIVIL)NO.26776 OF 2008

Subramaniam ...Petitioner

Versus

Masanammal & Ors. ...Respondents

OFFICE REPORT ON DEFAULT

The matter above mentioned was listed before the
Hon'ble Court on 3rd November, 2008, when the Hon'ble
Court was pleased to pass the following order:-

**"Delay condoned
Issue notice."**

It is further submitted that Counsel for the
Petitioner has on 4th July, 2013 filed memo on behalf of
the Petitioner stating therein that Respondent No. 6 Mrs.
Rukmani Ammal, died on 28th December, 2008 and her Legal
Representative are already on record as Respondent Nos.
3, 4 and 5 and Respondent No. 4 Mr. Murugan, died on
12th March, 2010 and his share will devolve on the
Petitioner, Respondent Nos. 1 to 3, and 7 who are already
on record (Copy enclosed). ...2/-

It is further submitted that Counsel for the Petitioner was requested to file proper application for substitution in this regard after effecting service of the application on the other advocate. Counsel for the Petitioner has on 18th September, 2013 filed proof of service of the Memo of parties dated 4th July, 2013 after serving the same on the other side advocate but she has not filed proper application (Copy of the memo on behalf of Petitioner included in the Special Leave Petition paper books).

It is further submitted that Ms. V. Mohana, Advocate has on 13th August, 2014 filed an application for substitution to bring on record the Legal Representatives of deceased Respondent No. 1 with application for condonation of delay in filing substitution application and setting aside of abatement. It is barred by time by 1099 days. The application is defective for the following reasons:-

1. Annexure D. 1 (death certificate) has not been filed.
2. In the Para 3 and in Prayer, it is mentioned, deceased Petitioner in place of respondent No. 1.

The default of the Counsel for the Petitioner was listed before the Hon'ble Judge-in-Chambers on 1st December, 2015, when His Lordship was pleased to pass the following order:-

"It is submitted by learned counsel for the petitioner that the defects as referred to, in the office report dated 08.11.2014 have since been rectified.

The Registry to verify and proceed accordingly."

It is submitted that in view of the above order, Counsel for the petitioner has not cured all the above mentioned defects till date. In the meantime, Counsel has also on 6th January, 2015 filed application for substitution of LRs. of deceased respondent Nos. 4, 6 and 8. There is delay of 1310, 2198 and 103 days respectively. Counsel has also filed application for condonation of delay in filing substitution application alongwith setting aside abatement with death certificate of respondent Nos. 4, 6 and 8, wherein Counsel has stated that Respondent No. 4 (viz Murugan) died unmarried and issue less so he will substituted by respondent Nos. 3 and 5, who are already on record (viz. Karthikeyan and Dhanalakshmi).

It is submitted that application for substitution of LRs. of deceased Respondent Nos. 4, 6 and 8 is defective for the reason that as per Special Leave Petition cause title name of respondent No. 4 (Murugan), but in the death certificate name mentioned K. K. Murugan, as per cause title name of respondent No. 6 mentioned (Rukmani Ammal), but in the death certificate name mentioned K. Rukmaniyammal and name of respondent No. 8 mentioned in the Special Leave Petition Ayyasamy and in the death certificate mentioned M. Ayyasamy.

The default of the Counsel for the Petitioner is reported to the Hon'ble Judge-in-Chambers with this office report.

Dated this, the 22nd day of December, 2016.

ASSISTANT REGISTRAR

Copy to : Mr. Vijay Kumar, Advocate
Mr. Vipin Nair, Advocate

ASSISTANT REGISTRAR

