

ITEM NO.64

COURT NO.3

SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL)..... Diary No. 28616/2023

(Arising out of impugned final judgment and order dated 18-02-2021 in ASMD No. 8/2007 passed by the High Court Of Judicature At Madras At Madurai)

MURUGESAN (DIED) THROUGH LRS**Petitioner(s)****VERSUS****RAJESWARI & ORS.****Respondent(s)**

(IA No.173045/2023-CONDONATION OF DELAY IN FILING and IA No.173042/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.173046/2023-APPLICATION FOR SUBSTITUTION and IA No.173049/2023-SETTING ASIDE AN ABATEMENT and IA No.173044/2023-EXEMPTION FROM FILING O.T. and IA No.173038/2023-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS and IA No.173052/2023-APPLICATION FOR CONDONATION OF DELAY IN FILING THE APPLICATION FOR SETTING ASIDE THE ABATEMENT)

Date : 04-09-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ANIRUDDHA BOSE
HON'BLE MR. JUSTICE SANJAY KUMAR

For Petitioner(s) Mr. S. Nagamuthu, Sr. Adv.
 Mr. M.P. Parthiban, AOR
 Ms. Priyaranjani Nagamuthu, Adv.
 Mr. R. Sudhakaran, Adv.
 Mr. T. Hari Haran Sudhan, Adv.
 Mr. Bilal Mansoor, Adv.
 Mr. Shreyas Kaushal, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

In the present petition, a judgment passed by the Madurai Bench of the High Court of Madras is assailed. Before the High Court, one 'Murugesan' was the first respondent. After delivery of judgment on

18th February 2021, Murugesan passed away. We are informed by the learned counsel seeking to represent the petitioner that date of death of Murugesan is 09.07.2021.

The present special leave petition, filed on 19.07.2023, describes the petitioner as "Murugesan (died) through legal representatives". In the cause-title of this petition, however, none of the legal representatives of the deceased has been named as petitioners. In the affidavit in support of this special leave petition, the deponent is one "Saroja M.", who has described herself as one of the petitioners. But as we have already indicated, in the cause-title, there is no other petitioner barring "Murugesan (Died)".

In our opinion, filing of this special leave petition itself is defective as in the cause-title, name of none of the legal representatives of deceased-Murugesan is shown. They are not parties to this petition. In their absence, the present special leave petition is not maintainable.

In a situation of this nature, we are of the opinion that the legal representatives of the deceased-petitioner ought to bring the special leave petition in their own name(s), supported by an application for permission to prefer the

petition in the capacity of legal representatives of the deceased-petitioner.

We, accordingly, dismiss the present petition with leave to the legal representatives to file a fresh petition on the self same grounds against the same order which is sought to be assailed in this petition.

Let a copy of this order be sent to the Registry.

Pending application(s), if any, shall also stand disposed of.

(SNEHA DAS)
SENIOR PERSONAL ASSISTANT

(VIDYA NEGI)
ASSISTANT REGISTRAR