

C.M.P.No.16 of 2016
in
S.A.S.R.No.21727 of 2015

T.MATHIVANAN, J

This petition is filed under Order 41 Rule 3-A r/w Order 42 Rule 1 of C.P.C to condone the delay of 713 days in filing the Second Appeal as against the judgement and decree passed in First Appeal in A.S.No.11 of 2012, dated 20.03.2013.

2. Heard Mr.Karan and Uday, learned counsel appearing for the petitioners and Mr.S.Kothandaraman, learned counsel appearing for the respondent.

3. The learned counsel appearing for the petitioners has submitted that the First Appellate Court had pronounced the judgement in the First Appeal, on 20.03.2013 and subsequently, the defendant in the Suit in O.S.No.44 of 2001 had passed away on 17.08.2013 and therefore, the legal heirs of the deceased defendant were not able to immediately secure the legal heir certificate and take necessary steps to file an application to bring them on record. In this connection, there is a delay of 713 days. Excepting this reason, the petitioners, who are the legal heirs of the defendant, have not assigned any other reasons.

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4. On the other hand, Mr.S.Kothandaraman, learned counsel appearing for the respondents has submitted that the petitioners have not shown any satisfactory reason much less sufficient cause to condone the abnormal delay of 713 days in filing the Second Appeal. He has also argued that the long and inordinate delay of 713 days, would depict the gross negligence and laches on the part of the petitioners.

5. Having regard to the submissions made by the learned counsel for the petitioners and also having considered with the reasons stated in the counter affidavit, this Court finds that this petition can be allowed, subject to the condition of payment of costs of Rs.2000/- to the learned counsel for the respondents directly today.

6. The Registry is directed to list the Second Appeal on 25.04.2016, after numbering the same.

21.04.2016

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