



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Monday, the Fourteenth day of November Two Thousand Sixteen
PRESENT

The Hon`ble Mr.Justice S.S.SUNDAR

CMP(MD) No.1580 of 2016

IN

SA(MD) No.SR17612 of 2015

RAJESWARI,

... PETITIONER/APPELLANT

Vs

1 REVEREND A.CHRISTOPHER AASIR,
CHAIRMAN, CHURCH OF SOUTH INDIA MADURAI-
RAMANATHAPURAM DIOCESE.

2 ARULTHIRU.G.V.SAVARI RAJAN,
TREASURER, CHURCH OF SOUTH INDIA MADURAI-
RAMANATHAPURAM DIOCESE.

... RESPONDENTS/RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to condone the delay of 3666 days in filing the SA(MD)SR.No.17612 of 2015 and render justice.

PRAYER IN SA(MD) No.SR17612 of 2015:

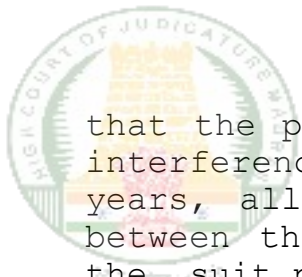
To set aside the judgment and decree dated 28.12.2004 made in A.S.No.57 of 2004 on the file of the Principal District Court, Ramanathapuram confirming the judgment and decree dated 20.10.2003 made in O.S.No.109 of 2000 on the file of Additional District Munsif Court, Ramanathapuram.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S. PT.S.NARENDRAVASAN, Advocate for the petitioner and of Mr.T.R.Jeyapalam, Advocate for R1 & R2, the court made the following order:-

This Miscellaneous Petition is filed to condone the delay of 3666 days in filing the above second appeal.

2. This application was seriously objected to by the respondents and a counter affidavit is also filed.

3. The case of the petitioner in the affidavit filed in support of the petition is that the petitioner came to know about the disposal of the case only after the receipt of a notice in the execution petition and after entering appearance in the execution proceedings, he filed a copy application for getting the certified copy of the judgment and decree of the Courts below on the advice of his Counsel. It is the further case of the petitioner that the parties in the proceedings have arrived at a settlement and based on



that the petitioner is proceeding on the suit property without any interference. However, the respondents quite after more than ten years, all of sudden, in violation of the agreement entered into between the parties, filed the execution petition for delivery of the suit property.

WEB COPY

4. In the counter affidavit filed by the respondents, the case of the petitioner was denied by the respondents. The alleged agreement or settlement that was pleaded by the petitioner, is specifically denied by the respondents. According to the respondents, there was no such settlement talk or amicable settlement as projected by the petitioner and it was only to prolong the execution petition. According to the respondents, the petitioner has come up with the second appeal with a huge delay of more than ten years without any valid explanation or excuse.

5. The only reason given by the petitioner is unbelievable and the contention of the learned Counsel for the petitioner that after the disposal of the appeal by the lower Appellate Court, the respondents agreed for the petitioner being continued in possession and assured that the execution petition would never be filed, is unbelievable. After getting a decree, no one would give up his right without any reasons. No reason is alleged in the petition as to why the respondents wanted the petitioner to continue in possession. Mere delay in filing the execution petition cannot be a ground to excuse the delay.

6. It is not in dispute that the proceedings before the Courts below are contested on merits and ultimately, the appeal was dismissed in favour of the respondents confirming the decree for recovery of possession. It is admitted by the petitioner that no copy application was filed for obtaining the certified copy of the judgment and decree of the Courts below till the Execution petition was filed. In such circumstances, as contended by the respondents, the petitioner has filed the present second appeal only to protract the execution proceedings.

7. In the above said circumstances, the petitioner is not entitled to any indulgence. Since the huge delay of more than ten years has not been satisfactorily explained and there is no reasonable cause as alleged by the petitioner, there is no other option except to dismiss this petition.

8. Accordingly, this Civil Miscellaneous Petition is dismissed.

sd/-
14/11/2016

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TO

1 THE PRINCIPAL DISTRICT JUDGE, RAMANATHAPURAM

2 THE ADDITIONAL DISTRICT MUNSIF, RAMANATHAPURAM

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ORDER

IN

CMP (MD) No.1580 of 2016

IN

SA (MD) No.SR17612 of 2015

Date :14/11/2016

gsr

SH/DB/SAR-3:23.11.2016:3P/3C