



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

Thursday, the Eleventh day of August Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM

CMP(MD) No.2171 of 2016
IN
CRP(MD) No.SR7083 of 2016

K. GOPALRAM ... PETITIONER/PETITIONER/RESPONDENT

Vs

A. MUTHUMARI ... RESPONDENT/RESPONDENT/PETITIONER

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 703 days in filing the Civil Revision petition against the order dated 11.12.2013 passed in the district court, karur in CMA 12 of 2013 against IA 166 of 2012 in HMOP 131 of 2009.

Prayer in CRP(MD) No.SR7083 of 2016:

To set aside the order dated 11.12.2013 passed in C.M.A.12 OF 2013 on the file of Principle District Judge, Karur with cost and pass such further or other order as this Hon`ble Court.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of K.GOPAL RAM, party in person for the petitioner and of Mr.K.GOKUL, Advocate on behalf of the Respondent, the court made the following order:-

This application is filed to condone the delay of 730 days in filing the revision against the order passed in CMA No.12 of 2013.

2.Although, the party-in-person, has narrated the facts of the case in nineteen paragraphs, explained the reasons for the delay in para 17 and 18, which are extracted hereunder:-

"17.I respectfully submit that, petitioner applied CA for the Judgment copy of I.A..02 of 2012, dated 07.02.2012, it was rejected multiple times without valid reasons and there after given several complaints, petitioner got the judgment copy of I.A.02 of 2012 in the month of Nov 2014.

18,I respectfully submit that, petitioner applied CA for the second ex-parte judgment copy dated 13-06-2012, it was rejected multiple times



without valid reasons and after given a complaint to chief judicial magistrate, Karur on 11.12.2014, the petitioner received the certified judgment copy on 12.12.2014.

3. In the counter filed by the respondent, it is stated that the petitioner has failed to give proper explanation for the delay and also suppressed the real facts; that he applied for the certified copy of the judgment passed in CMA No.12 of 2013 on 09.11.2014 and on the same day, the order copy was made ready and it was received by him on the same day. But in his affidavit, he has deliberately suppressed the fact stating that it was received by him on 12.12.2014. Further, the petitioner did not give any explanation from 12.12.2014 till the date on which, the appeal was filed i.e., 23.02.2016.

4. The party-in-person would submit that the respondent by playing fraud on the court and by giving false address, has obtained the order copy and the delay has to be condoned by adopting liberal approach. He also filed a written arguments.

5. Per contra, the learned counsel for the respondent would submit that the order was passed in CMA NO.12 of 2013 on 11.03.2013, but the petitioner filed an application for certified copy of the order only on 09.01.2014. Though, the order was received by him on the same day, this appeal came to be filed only on 23.02.2016. It is further submitted that the reasons given by the petitioner in the condone delay petition are totally false and it is misleading.

6. It is further submitted that the petitioner has not offered any explanation between the date of receipt of the order and filing of this petition for about 3 months and even, assuming that the petitioner received the order copy only on 12.12.2014, but till the date of filing of the appeal, he has not given any explanation. It is further submitted that if the party has not approached the court with clean hands, he is not entitled for any indulgence.

7. Heard the rival submissions and perused the materials available on record.

8. As stated above, the affidavit and the written submission of the petitioner, devolves upon the facts on the previous proceedings between the parties and in para Nos.17 and 18 of the affidavit, the petitioner has specifically stated that he received the order copy on 12.12.2014. A perusal of the typed set would reveal that the petitioner applied for certified copy of the order on 21.07.2015 and received it on 24.07.2015. Based on the order, he filed the present revision. However, page Nos.138 and 144 of the typed set of papers show that he received the certified copy of the fair and decreetal order in CMA No.12 of 2013 on 09.01.2014, but ironically in the affidavit, nothing has been stated in this regard. Further, there is absolutely no explanation offered for the delay in filing the copy application and till filing this revision, after receipt of the certified copy of the order.



9. In view of the above facts, this court is of the opinion that the petitioner has not approached the court with clean hands, nor shown sufficient cause for condonation of delay. In fine, this application is **dismissed**.

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11/08/2016

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

THE PRINCIPLE DISTRICT JUDGE, KARUR.

ORDER
IN
CMP (MD) No.2171 of 2016
IN
CRP (MD) No.SR7083 of 2016
Date :11/08/2016

ER
TE/AAL-MPA/SAR-I : 27/09/2016 : 3P/2C (IT)