



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

Thursday, the Twenty First day of April Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice R.MAHADEVAN

WEB COPY

CMP(MD) No.3694 of 2016
IN
SA(MD) No.SR14346 of 2014

AMBASAMUDRAM TALUK,
VAIRAVIKULAM, ARULAPPARKOVIL
THROUGH ITS PANGU THANTHAI
MIRANDA, NOW THRO ITS PRESENT
PANGU THATHAI MOYEESON.

... PETITIONER/APELLANT

(Cause title accepted as per the order of court dated:6.1.16 made in MP.
(MD).NO.SR14346/14 by CSKJ)

Vs

1 AMBASAMUDRAM TALUK,
VAIRAVIKULAM, MUPPIDATHIAMMAN KOVIL
THRO ITS SECRETARIES
(iv) MARIAPPAN,
(v) SEETHARAMAN,
(vi) NATARAJAN,

2 ARUMUGAM

3 PECHI,

(RESPONDENTS 2 AND 3 FOR THEMSELVES & REPRESENTING ON
BEHALF OF HINDU PEOPLE OF VAIRAVIKULAM)

4 AUGUSTIN,

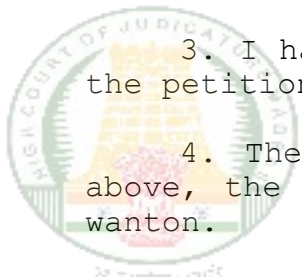
... RESPONDENTS/RESPONDENTS

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 7378 days in filing the Second Appeal against the judgment and decree passed in A.S.No.160 of 1992 on the file of Sub Court, Ambasamudram dated:13.09.1993 reversing the judgment and decree passed in O.S.No.187 of 1987 on the file of the District Munsif Court, Ambasamudram dated:31.07.1990.

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. T.SELVAN, Advocate for the petitioner and of Mr.H.Arumugam, Advocate for R2, the court made the following order:-

This Miscellaneous Petition has been filed seeking to condone the delay of 7378 days in filing the Second Appeal.

2. It is stated by the petitioners that A.S.No.160 of 1992 filed by the respondents was allowed on 13.09.1993 and thereafter, they took steps and filed copy application for certified copies of Judgments. In this regard, there arose a delay of 7378 days in filing the present Second



3. I have considered the submissions made by the learned counsel for the petitioner and perused the materials available on record.

4. The petitioner mainly contended that due to the reasons stated above, the delay of 7378 days had occurred and it is neither wilful nor wanton.

5. The Honourable Supreme Court in **R.B.Ramlingam v. R.B.Bhuvaneswari** reported in **2009(2) SCALE 108**, has considered the delay of 568 days in filing the Special Leave Petition and observed as follows:

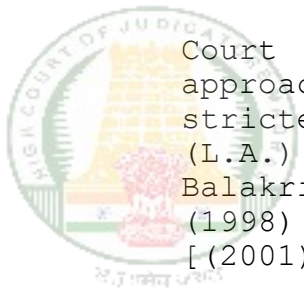
"3. ... Reading the said judgment, it also becomes clear that filing of Review Petition is no impediment to the filing of the special leave petition. Large number of judgments were cited before us by learned counsel. It is not necessary at this stage to discuss each and every judgment cited before us for the simple reason that Section 5 of the Limitation Act, 1963 does not lay down any standard or objective test. The test of "sufficient cause" is purely an individualistic test. It is not an objective test. Therefore, no two cases can be treated alike. The statute of Limitation has left the concept of "sufficient cause" delightfully undefined, thereby leaving to the Court a well-intentioned discretion to decide the individual cases whether circumstances exist establishing sufficient cause. There are no categories of sufficient cause. The categories of sufficient cause are never exhausted. Each case spells out a unique experience to be dealt with by the Court as such.

4. For the aforesaid reasons, we hold that in each and every case the Court has to examine whether delay in filing the special leave petition stands properly explained. This is the basic test which needs to be applied. The true guide is whether the petitioner has acted with reasonable diligence in the prosecution of his appeal/petition."

6. In **Oriental Aroma Chemical Industries Ltd. v. Gujarat Industrial Development Corporation** reported in **(2010) 5 Supreme Court Cases 459**, the Honourable Supreme Court considered the inordinate delay on the part of the State Corporation in filing the appeal and observed as follows:

"14. We have considered the respective submissions. The law of limitation is founded on public policy. The legislature does not prescribe limitation with the object of destroying the rights of the parties but to ensure that they do not resort to dilatory tactics and seek remedy without delay. The idea is that every legal remedy must be kept alive for a period fixed by the legislature. To put it differently, the law of limitation prescribes a period within which legal remedy can be availed for redress of the legal injury. At the same time, the courts are bestowed with the power to condone the delay, if sufficient cause is shown for not availing the remedy within the stipulated time.

15. The expression "sufficient cause" employed in Section 5 of the Limitation Act, 1963 and similar other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which subserves the ends of justice. Although, no hard-and-fast rule can be laid down in dealing with the applications for condonation of delay, this



Court has justifiably advocated adoption of a liberal approach in condoning the delay of short duration and a stricter approach where the delay is inordinate—Collector (L.A.) v. Katiji [(1987) 2 SCC 107 : AIR 1987 SC 1353)], N. Balakrishnan v. M. Krishnamurthy [(1998) 7 SCC 123 : JT (1998) 6 SC 242] and Vedabai v. Shantaram Baburao Patil [(2001) 9 SCC 106]."

7. Though the expression "sufficient cause" should receive a liberal consideration, each case is to be decided on the facts and this Court is of the view that in the absence of proper and sufficient reasons, the huge and inordinate delay of 7378 days in filing the Second Appeal cannot be condoned.

8. In the result, this Miscellaneous Petition is dismissed. Consequently, S.A.(MD)(SR).No.14346 of 2014 stands rejected.

sd/-
21/04/2016

/ TRUE COPY /

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

TO

1 THE SUBORDINATE JUDGE, AMBASAMUDRAM

2 THE DISTRICT MUNSIF, AMBASAMUDRAM

sm:AAL-MPA:SAR I:26.04.2016:3P/3c

ORDER
IN
CMP(MD) No.3694 of 2016
IN
SA(MD) No.SR14346 of 2014
Date :21/04/2016