



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

Wednesday, the Twenty Third day of March Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice R.MAHADEVAN

CMP(MD) No.978 of 2016
IN
SA(MD) No.SR4337 of 2016

1 SUBBULAKSHMI,
2 GANTHANAYAGAVALLI, ... PETITIONERS/APPELLANTS

Vs

1 THE TAHSILDAR,
ARUPPUKOTTAI TALUK, VIRUDHUNAGAR DISTRICT.

2 THE DISTRICT COLLECTOR,
VIRUDHUNAGAR DISTRICT, VIRUDHUNAGAR.

3 SANGARALINGAM
4 KUMARASAMY,
5 GOPAL
6 SETTIPATTI PANCHAYAT
REPRESENTATION BY ITS PRESIDENT, CHETTIPATTI
VILLAGE, ARUPPUKOTTAI TALUK, VIRUDHUNAGAR DISTRICT.

7 JEYAMANI
8 PUSHPAVALLI, ... RESPONDENTS

Civil Miscellaneous Petition filed under order 41 Rule 3 (A) r/w. order 42 Rule 1 CPC, praying that in the circumstances stated therein and in the affidavit filed therewith and the High Court will be pleased to condone the delay of 2877 days in preferring the above SA(MD) SR.No.4337 of 2016 .

PRAYER IN SA.(MD).SR.4337 of 2016:

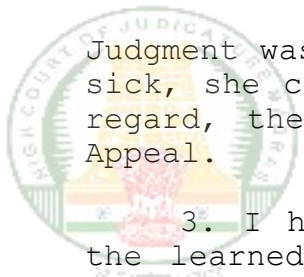
Appeal filed under section 100 of the code of Civil Procedure, against the Judgment and decree dated:3/12/2007 on the file of the Subordinate Judge, Aruppukottai made in A.S.No.33 of 2007 confirming the judgment and decree dated:18/4/07 made in O.S.No.271/2000 on the file of the District Munsif court, Aruppukottai.

ORDER : This petition coming on for hearing on this day upon perusing the petition and the affidavit filed in support thereof on the file of the High court and materials available on record and upon hearing the arguments of M/S. R.JEYARAJ, Advocate for the petitioners and Mr.S.Parthasarathy, Advocate for 5th respondent and the court made the following order:-

This Miscellaneous Petition has been filed seeking to condone the delay of 2877 days in filing the Second Appeal.

<https://hcservices.ecourts.gov.in/hcservices/>

2. It is stated by the petitioners that A.S.No.33 of 2007 was dismissed by the Lower Appellate Court, on 03.12.2007 and copy of the



Judgment was made ready on 18.02.2009. Since the first petitioner fell in sick, she could not contact her counsel for the past five years. In this regard, there arose a delay of 2877 days in filing the present Second Appeal.

3. I have heard the learned counsel appearing for the petitioners, the learned counsel appearing for the fifth respondent and perused the materials available on record.

4. The petitioner mainly contended that due to the reasons stated above, the delay of 2877 days had occurred and it is neither wilful nor wanton.

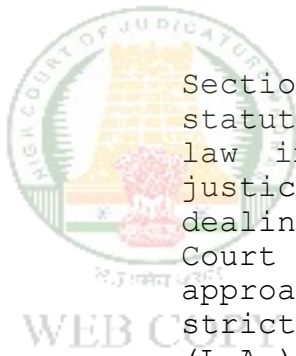
5. The Honourable Supreme Court in **R.B.Ramlingam v. R.B.Bhuvaneswari** reported in **2009(2) SCALE 108**, has considered the delay of 568 days in filing the Special Leave Petition and observed as follows:

"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 aforestated 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, delay of 2877 days in filing the Second Appeal cannot be condoned.

8. In the result, this Miscellaneous Petition is dismissed. Consequently, S.A.(MD)SR.No.4337 of 2016 stands rejected.

Sd/-
Assistant Registrar(R)

/True copy/

Sub Assistant Registrar

TO

1 THE SUBORDINATE JUDGE, ARUPPUKOTTAI
2 THE DISTRICT MUNSIF, ARUPPUKOTTAI

+1cc to Mr.S.Parthasarathy, Advocate SR.No.16290
+1cc to Mr.R.Jeyaraj, Advocate SR.No.17088

Date :23/03/2016
ORDER

CMP(MD) No.978 of 2016
IN
SA(MD) No.SR4337 of 2016
Dismissing the Miscellaneous
Petitions and rejecting thee SA.
(MD).SR and giving directions as
stated within.

sm:GSV-PM:AR I:05.04.2016:3P/5c