



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

Friday, the Eighth day of December Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice S.BASKARAN

CMP(MD) No.11052 of 2017

IN

SA(MD) No.SR1830 of 2016

K.VELUSAMY

... PETITIONER/APPELLANT

Vs

1 ARUKKANI

2 KALIYAMMAL

3 SHYAM KUMAR

4 GUNASEKARAN

(R2 TO R4 EXPARTE LOWER COURTS, HENCE
NOTICE OF THEM MAY DISPENSE WITH)

... 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 657 days in representing the second appeal in SA.SR.No.1830/2016 and thus render justice.

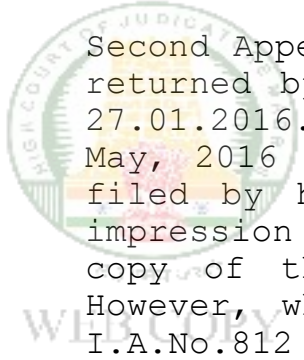
PRAYER IN SA(MD)No.SR1830 of 2016:

To prefer this Memorandum of grounds of second appeal against the judgement and decree passed in A.S.No.35 of 2014 dated 09.09.15, on the file of the Principal District Court, Karur, reversing the judgement and decree passed in O.S.No.225/2012 dated 28.02.14 on the file of Principal Sub-Court, Karur.

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.H.ARUMUGAM, Advocate for the petitioner, the court made the following order:-

The petitioner has come forward with this petition seeking to condone the delay of 657 days in representing the Second Appeal which was filed in time.

2.The first respondent herein filed a suit in O.S.No.225 of 2012 on the file of the Principal Sub Court, Karur, seeking declaration and consequential relief and the said suit was dismissed on 28.02.2014. Aggrieved over the same, the first respondent herein filed an appeal in A.S.No.35 of 2014 on the file of the Principal District Court, Karur and the said appeal was allowed on 09.09.2015. Challenging the same, the petitioner has preferred the present



Second Appeal in S.A(MD).No.SR1830 of 2016 in time and the same was returned by the Registry for rectification of certain mistakes on 27.01.2016. Thereafter, the petitioner contacted his counsel during May, 2016 and he was asked to get a copy of the written statement filed by him from the trial Court. Thereafter he was under the impression that the second appeal was represented on receipt of the copy of the written statement from the trial Court's advocate. However, when he received notice in the final decree petition in I.A.No.812 of 2017 in O.S.No.225 of 2012 on 26.10.2017, he contacted his counsel and he was informed that the appeal was not represented by his counsel since copy of the written statement was not received. Thereafter he met the trial Court's counsel and obtained a copy and bundle on 10.11.2017 and the same has been represented now on 14.11.2017. Due to that, the delay of 657 days has occurred in representing the second appeal, hence the petitioner seeks to condone the delay.

4.Heard the learned counsel appearing for the petitioner.

5.Considering the reasons stated by the petitioner and the fact that the appeal has been filed in time and the delay has occurred only in representation, that too because of the delay in getting a copy of the written statement from the trial Court's counsel, this court is inclined to entertain this petition on condition.

6.In the result, this petition is allowed on condition that the petitioner shall pay a cost of Rs.650/- (Rupees Six Hundred and Fifty only) to the credit of the High Court Legal Service Committee on or before 18.12.2017, failing which, this petition shall stand automatically dismissed, without any further reference to this Court.

sd/-

08/12/2017

/ TRUE COPY /

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

TO

1 THE PRINCIPAL DISTRICT JUDGE, KARUR

2 THE PRINCIPAL SUUBORDINATE JUDGE, KARUR

COPY TO : THE OFFICER INCHARGE, LEGAL AID SERVICES AUTHORITY,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CMP(MD) No.11052 of 2017

IN

SA(MD) No.SR1830 of 2016

Date :08/12/2017