



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

Tuesday, the Nineteenth day of December Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice S.BASKARAN

CMP(MD) Nos.11601 to 11603 of 2017
IN
SA No.1848 of 2003

SMT. LAKSHIMAYEE AMMAL

... PETITIONER / APPELLANT

Vs

1 THIRU. DURAI PILLAI (DIED)

... RESPONDENT / RESPONDENT

2 TMT. KANNAMMAL

3 MR. DHANAPAL

4 MR. KAMARAJ

5 MR. SHANMUGHAVEL

6 SMT. NALINI

... RESPONDENTS / PROPOSED
RESPONDENTS 2 to 6

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 597 days in representing the said M.P.SR.No.5875/2015 in S.A.No.1848/2003.

Prayer in CMP(MD). 11602/ 2017 :

To condone the delay of 597 days in representing the said M.P.SR.No.5876/2015 in S.A.No.1848/2003.

Prayer in CMP(MD). 11603/ 2017 :

To condone the delay of 597 days in representing the said M.P.SR.No.5877/2015 in S.A.No.1848/2003.

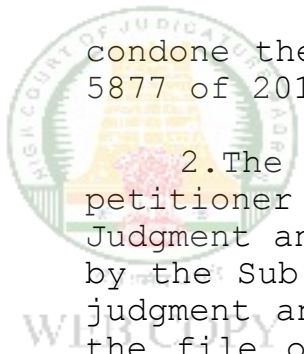
PRAYER IN SA No.1848 of 2003:-

to prefer this Memorandum of Grounds against the decree and judgment in A.S.No.51/2000 dated 18.03.2003 on the file of Subordinate Court at Pudukottai at Pudukottai District in setting aside the decree & judgment in O.S.No.691/1995 24.11.1999 on the file of the District Munsif cum Judicial Magistrate Court at Keeranur.

ORDER : These petitions coming on for orders upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of Mr. A.RAJESH KANNA, Advocate for the petitioner in all the petitions and of Mr.K.P.NARAYANAKUMAR, Advocate for R3 to R6, in all the petitions, the court made the following order:-

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

The petitioner has come forward with these petitions seeking to



condone the delay of 597 days in representing the M.P.Sr.No.5875 to 5877 of 2015 in S.A.No.1848 of 2003.

2.The petitioner states that the Second Appeal was filed by the petitioner in S.A.No.1848 of 2003 before this Court against the Judgment and decree, dated 18.03.2003, made in A.S.No.51/2000 passed by the Sub Judge, Pudukottai, Pudukottai District, by reversing the judgment and decree, dated 24.11.1999, passed in O.S.No.691/1995 on the file of the District Munsif-cum-Judicial Magistrate, Keeranur. When the Second Appeal came up for admission on 23.10.2003, before the Principal seat of Madras High Court, the same was admitted and stay was granted in C.M.P.No.16789/2003 and the same was made absolute on 22.01.2004. Thereafter, the case was transferred to Madurai Bench of Madras High Court. When the petitioner received a legal notice from the legal heirs of the deceased respondent on 29.11.2011, then only he came to know about the death of respondent Durai Pillai on 08.01.2009. Only after three years of his death the petitioner came to know about that since no memo was filed in Court by the heirs of deceased Durai Pillai. Even though the death of Durai Pillai came to the knowledge of the petitioner only on 29.11.2011, he has taken steps to set aside the abatement caused due to the respondent in S.A.No.1848/2003 and filed petitions to set aside the abatement and to bring on the legal heirs of the respondent with condone delay petition on 09.02.2015. The same was returned by the Registry on 05.03.2015 for rectification. Subsequently, as petitioner fell on sick and was taking treatment, he was not able to contact his counsel immediately and thereby delay has occurred. During January 2016, when the bundle was searched to carry out the mistakes in the Advocate office, it came to light that the Junior counsel has mis placed the bundle. However, only on 25.02.2016, the petitioner was informed that the bundle has been traced out and the same have been represented with the delay of 597 days. Hence the petitioner seeks to condone the delay.

3.On the other hand opposing the petition, the learned counsel for the respondent contends that only to protract the proceedings, the petitioner has not represented the papers in time and there no valid reason for the delay. Hence he opposes the petition.

4.However, in such circumstances, considering the reasons stated by the petitioner and the fact that the delay is only in representing the papers, this Court is inclined to entertain this petition in the interest of justice on condition.

5.In the result, these petition will be allowed on payment of cost of Rs.500/- (Rupees Five Hundred only) for each to the respondent by the petitioner on or before 22.12.2017, failing which these petitions shall stand dismissed automatically.

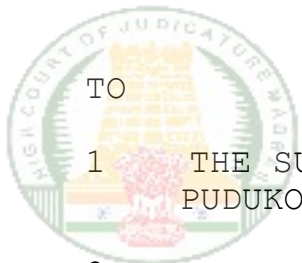
sd/-

19/12/2017

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

Sub-Assistant Registrar (C.S.)



TO

1 THE SUBORDINATE JUDGE,
PUDUKOTTAI DISTRICT

2 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, KEERANUR

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JAM/28.12.17/PN/ SAR 4 / 2p-3c

ORDER
IN
CMP (MD) Nos.11601 to 11603 of 2017
IN
SA No.1848 of 2003
Date :19/12/2017