



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

Thursday, the Twenty Third day of February Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice RMT.TEEKAA RAMAN

CMP(MD) Nos.11359 & 8412 of 2016

IN

SA(MD) Nos.1032 of 2007 & 155 of 2006

GOPI

.... PETITIONER/APELLANT IN CMP(MD)
No.11359 of 2016 IN SA(MD)
No.1032 of 2007

1 LAKSHMANAN PILLAI
2 VELAYUTHAN PILLAI
3 GOPI
4 MADHAVAN PILLAI
5 MANI
6 THANGAPPAN PILLAI
7 LAKSHMI
8 PREMA
9 KATHIRAVAN
10 SANTHI
11 MOHANAN

.... PETITIONERS/APELLANTS IN CMP(MD)
No.8412 of 2016 IN SA(MD)
No.155 of 2006

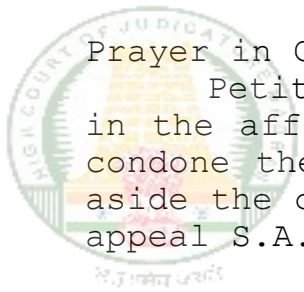
Vs

1 BHAGAVATHI KANNU
2 TMT. SAROJINI

...RESPONDENTS/RESPONDENTS IN CMP(MD)
No.11359 of 2016 IN SA(MD)
No.1032 of 2007

1 M.NAINA MOHAMMED
2 M.MOHAMMAD NOOGU
3 M.PEER MOHAMMAD
4 M.MOHAMMAD HANIFA
5 M.SAHUL HAMEED
6 M.ABDUL HAREEM
7 V.GANESAN
8 CHANDRASEKARAN, HOTEL MANAGER
9 SAROJINI
10 AYYAPPAN,
11 DEVASAHAYAM

....RESPONDENTS/RESPONDENTS IN CMP(MD)
No.8412 of 2016 IN SA(MD)
No.155 of 2006



Prayer in CMP(MD) No.11359 of 2016 IN SA(MD)No.1032 of 2007:-

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 808 days caused in filing the petition to set aside the order of dismissal for non prosecution of the above second appeal S.A.No.1032/2007 on 23.07.2014.

Prayer in CMP(MD) No.8412 of 2016 IN SA(MD)No.155 of 2006:-

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to set aside the order of dismissal for non prosecution of the above second appeal S.A.No.155/2006 on 23.07.2014 and restore the same to the file of this Honourable Court.

Prayer in SA(MD). 1032/ 2007 :

The appellant above named begs to prefer this memorandum of grounds of SA against the decree and Judgment made in AS.59/2003 dated 16/03/2005 on the file of Sub Judge, Padmanabhapuram in confirming the Judgment and Decree in OS.108/1986 dated 19.06.2003 on the file of Addl. District Munsif, Padmanabhapuram.

Prayer in SA(MD). 155/ 2006 :

SA against the Decree and Judgment made in AS.58/2003 dated 16/03/2005 on the file of Sub Judge, Padmanabhapuram in confirming the Judgment and Decree in OS.610/1989 dated 19/06/2003 on the file of Addl. District Munsif, Padmanabhapuram.

ORDER : These petitions coming on for orders upon perusing the petition and the affidavits filed in support thereof and upon hearing the arguments of M/S. V.RAGHAVACHARI, Advocate for the petitioner in both the petitions and of respondent not appearing either in person or by an Advocate in CMP(MD) No.11359 of 2016 IN SA (MD)No.1032 of 2007 and M/S.G.ANANDAVALLI, Advocate for R1 to R6 in CMP(MD) No.8412 of 2016 IN SA(MD)No.155 of 2006, the court made the following order:-

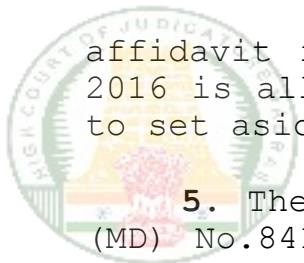
The appellant in S.A.(MD) No.1032 of 2007 has filed C.M.P.(MD) No.11359 of 2016 seeking condonation of delay of 808 days caused in filing petition to set aside the order of dismissal for non-prosecution, dated 23.07.2014.

2. According to the petitioner, he has filed the petition to set aside the order of dismissal in time and for certain deficiencies papers were returned and thereafter, the returned papers were misplaced and could not be traced out and in such circumstances he has filed fresh petition, hence the delay has been caused.

3. Notice has been served on the respondents as could be seen from the acknowledgment filed along with the petition. But, none appeared for them.

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

4. Having satisfied with the reasons stated in the accompanying



affidavit filed in support of the petition, C.M.P.(MD) No.11359 of 2016 is allowed and the delay of 808 days caused in filing petition to set aside the order of dismissal is condoned.

5. The appellants in S.A.(MD) No.155 of 2006 have filed C.M.P.(MD) No.8412 of 2016 to set aside the order of dismissal for non-prosecution, dated 23.07.2014, and to restore the same to file.

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6. Learned counsel appearing for the respondents 1 to 6 submitted that she is ready to get along with the appeal itself. The said submission is recorded. C.M.P.(MD) No.8412 of 2016 is allowed, the order of dismissal for non-prosecution dated 23.07.2014 is set aside and S.A.(MD) No.155 of 2006 is restored to file.

7. As stated supra, S.A.(MD) No.155 of 2006 is now ordered to be restored to file and insofar as S.A.(MD) No.1032 of 2007 is concerned, the delay in filing petition to set aside the order of dismissal alone is condoned. The learned counsel for the petitioner / appellant in S.A.(MD) No.1032 of 2007 submitted that he has already filed necessary application for restoration of the appeal to file.

8. Office is directed to verify and number the said application if it is otherwise in order and post on 28.02.2017.

sd/-
23/02/2017

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

TO

- 1 THE ADDITIONAL DISTRICT MUNSIF
PADMANABHAPURAM
- 2 THE SUBORDINATE JUDGE,
PADMANABHAPURAM
- 3 THE SECTION OFFICER,
JUDICIAL SECTION, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

ORDER
IN
CMP(MD) Nos.11359 & 8412 of 2016
IN SA(MD) Nos.1032 of 2007 &
155 of 2006
Date :23/02/2017