



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 07.06.2017
CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

WEB COPY

CMP (MD) No.1577 of 2017
in
Rev.Appl (MD) SR.No.5308 of 2017

Janawaz .. Petitioner

Vs.

1.Hussain Mohamed
2.Jawahar Ali
3.The Tahsildar,
Melur Taluk,
Madurai District.
4.The District Collector,
Madurai District. .. Respondents

Civil Miscellaneous Petition is filed under Section 5 of the Limitation Act to condone the delay of 1749 days in filing the Rev.Appl (MD) SR.No.5308 of 2017 before this Court.

For Petitioner : Mrs.J.Padhmaavathi Devi
For RR - 1 & 2 : No appearance
For RR - 3 & 4 : Mr.M.Govindan
Special Government Pleader

ORDER

This petition has been filed praying to condone the delay of 1749 days in filing Rev.Appl (MD) SR.No.5308 of 2017 so as to review the Judgment and decree passed in SA(MD)No.1246 of 2011 dated 09.02.2012.

2.It is averred in the petition that the petitioner is the appellant in SA(MD)No.1246 of 2011 and he has been shown as first defendant in the suit. On 09.02.2012, this Court has dismissed SA (MD)No.1246 of 2011. But the petitioner has not been able to get proper records at the time of advancing argument in SA(MD)No.1246 of 2011. Under the said circumstances, for the purpose of reviewing the Judgment and decree passed in SA(MD)No.1246 of 2011, the present petition has been filed.

3.On the side of the respondents 3 and 4, counter has been filed, wherein it is averred to the effect that the reason given for the delay is not genuine for condoning the huge delay of 1749 days and therefore, this petition deserves to be dismissed.



4.It is an admitted fact that the present petitioner has been arrayed as first defendant in the suit. The trial Court has dismissed the suit. Against the judgment and decree passed by the trial Court, the plaintiffs as appellants have preferred first appeal. The first appellate Court has reversed the finding given by the trial Court and ultimately decreed the suit. Against the Judgment and decree passed by the first appellate Court, the petitioner as appellant has filed SA(MD)No.1246 of 2011 on the file of this Court. After hearing arguments of both sides, this Court has dismissed SA(MD)No.1246 of 2011.

5.The learned counsel appearing for the petitioner has contended to the effect that at the time of advancing argument in SA(MD)No.1246 of 2011, the petitioner has not been able to get relevant facts and records. Under the said circumstances, the delay mentioned in the petition has occurred and in order to condone the same, the present petition has been filed.

6.The learned Special Government Pleader appearing for the respondents 3 and 4 has also equally contended to the effect that SA(MD)No.1246 of 2011 has been disposed of after hearing arguments of both sides and further, the present petition has been filed after a lapse of 1749 days and therefore, the present petition deserves to be dismissed.

7.As narrated earlier, in SA(MD)No.1246 of 2011, sufficient opportunities have been given to both parties to put forth their contention and on the basis of their rival submissions, this Court has dismissed SA(MD)No.1246 of 2011 on 09.02.2012. Now the petitioner has filed the present petition simply on the ground that at the time of advancing argument in SA(MD)No.1246 of 2011, necessary particulars have not been furnished.

8.Considering the fact that SA(MD)No.1246 of 2011 has been dismissed on merits after giving due opportunities to both parties, this Court is not inclined to condone the huge delay of 1749 days and therefore, the present petition deserves to be dismissed.

9.In fine, this petition is dismissed. No costs.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To

1.The Tahsildar, Melur Taluk, Madurai District.

2.The District Collector, Madurai District.

Mj

RL/3C/2P/KP/SAR1/19/6/2017

CMP (MD)No.1577 of 2017
in

Rev.Appl (MD) SR.No.5308 of 2017
07.06.2017