



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

Wednesday, the Fifteenth day of November Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice S.BASKARAN

CMP(MD) No.3502 of 2016

IN

SA No.948 of 2002

PANCHAZHI

... PETITIONER/APPELLANT

Vs

1 PAPPA

2 ADAIKKALAM

... 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 1172 days in filing this petition for restoring the SA.No.948/2002 and thus render justice.

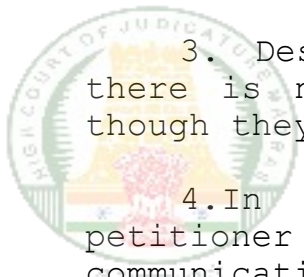
Prayer in SA. 948/ 2002 :

Appeal against the Decree and Judgment dated 28.08.2001 passed in A.S.No.139 of 2000 by the learned Principal District Judge, Pudukkottai, confirming the Judgment and Decree dated 16.06.2000 passed in O.S.No.146 of 1995 by the learned District Munsif, Aranthangi.

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.N.BALAKRISHNAN, Advocate for the petitioner and of the respondents not appeared either in person or by an advocate the court made the following order:-

The petitioner has come forward with this petition seeking to condone the delay of 1172 days in filing this petition for restoring the S.A.No.948 of 2002, which was dismissed for default.

2.The petitioner states that the appeal was transferred from Chennai to Madurai and due to lack of communication from his counsel at Chennai, he came to know that the second appeal was dismissed for default on 13.11.2008, only recently. He verified and came to know about dismissal for non-prosecution of the appeal on 13.11.2008. The petitioner states that he has a very good case on merits and non-appearance in the appeal is only due to non communication from his counsel. Hence, he seeks to condone the delay of 1172 days in filing this petition for restoring the second appeal.



3. Despite several notices being served to the respondents, there is no representation on the part of the respondents, even though they have already entered appearance through their counsel.

4. In such circumstances considering the fact that the petitioner has failed to prosecute the second appeal, due to non communication, this Court is inclined to entertain this petition on condition.

5. In the result, this petition is allowed on payment of cost of Rs.1,000/- (Rupees One Thousand only) to the High Court Legal Service Authority, Madurai and the same shall be paid by the petitioner on or before 04.12.2017, failing which, this petition will stand dismissed automatically without further reference to this Court.

6. Post this matter on 05.12.2017.

sd/-
15/11/2017

/ TRUE COPY /

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

TO

- 1 THE PRINCIPAL DISTRICT JUDGE, PUDUKKOTTAI.
- 2 THE DISTRICT MUNSIF, ARANTHANGI.

COPY TO

THE OFFICER-IN-CHARGE,
LEGAL AID SERVICES COMMITTEE,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CMP(MD) No.3502 of 2016 IN
SA No.948 of 2002
Date :15/11/2017

MKV-PM-PN-SAR 2/22.11.2017/2P-4C