



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

Wednesday, the Twenty Sixth day of July Two Thousand Seventeen

WEB COPY

PRESENT

The Hon`ble Mrs Justice PUSHPA SATHYANARAYANA

CMP(MD) No.6024 of 2017
IN
SA(MD) No.SR15255 of 2017

KARUPPUDAIYAR (DIED)

1. MURUGAN
2. ANNATHURAI
3. KRISHNAMOORTHY
4. DEEPAN CHAKRAVARTHY
5. MEENAKSHIAMMAL
6. PACHAYAMMAL
7. RANI
8. BABY THANGAM
9. PAPPATHI

... PETITIONERS / APPELLANTS

Vs

P. KAMALAM

... RESPONDENT / RESPONDENT

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 1485 days in filing the above SA(MD) SR15255/2017.

PRAYER IN SA(MD) No.SR15255 of 2017:-

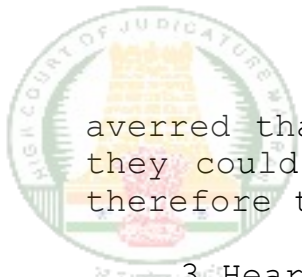
to set aside the Judgment and Decree of the Lower Appellate Court dated 11.03.2013 passed in A.S.No.16 of 2006 on the file of the Additional District and Sessions Judge, Dindigul, confirming the Judgment and Decree of the Trial Court dated 20.03.2006 passed in O.S.No.746 of 2003 on the file of the Additional Subordinate Court, Dindigul, and allow the present Second Appeal.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.M.R.SREENIVASAN, Advocate for the petitioner and of Mr.H.LAKSHMI SHANKAR, Advocate on behalf of the Respondent, the court made the following order:-

The defendants have filed an appeal with a delay of 1485 days in filing S.A.(MD)SR.No.15255 of 2017.

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

2.In the affidavit filed in support of the petition, it is



averred that the petitioners belong to poor agricultural coolie and they could not able to mobilize the funds to prefer an appeal and therefore the same has been filed with the above said delay.

3. Heard the learned counsel for the petitioners and the learned counsel for the respondent.

4. Now, the question to be decided is whether the application can be allowed or not?.

5. Time and again, the Hon'ble Supreme Court has laid down the principle for condoning the delay. Though the Court should not take lenient approach in a matter of condonation of delay, if sufficient cause is made out, the same can be condoned. The Hon'ble Supreme Court has suggested liberal, pragmatic and justice-oriented approaches, while dealing with the application for condonation of delay. It is only just and sufficient cause, that is made out by the applicant and not the length of the delay, that is to be considered, while dealing with an application for condonation of delay. If the explanation given by the petitioners is concocted or imaginary, then the Court should not expose the other side to face the unnecessary litigation.

6. Though there is no precise formula for exercising the judicial discretion, a conscious effort for achieving the consistency should be made. No doubt, the length delay cannot be viewed as a serious matter. As this Court is convinced with the reasons given by the petitioners as *bona fide*, this Court is of the opinion that the delay may be condoned. However, as stated earlier, for no fault of the respondent, he would be exposed to unnecessary litigation after several years. In such circumstances, it would be justified to compensate the respondent by directing the petitioners to pay a sum of Rs.3,000/- (Rupees Three Thousand Only) as cost to the respondent.

7. Accordingly, this petition is allowed and the delay of 1485 days in filing the appeal is condoned, subject to the payment of cost of Rs.3,000/- (Rupees Three Thousand only) to the respondent through his counsel within a period of four weeks from the date of receipt of a copy of this order, failing which this petition shall stand automatically dismissed without any further reference to this Court.

sd/-
26/07/2017

/ TRUE COPY /

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



TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
DINDIGUL

2 THE ADDITIONAL SUBORDINATE JUDGE,
DINDIGUL

JAM/01.08.17/PM-PN/SAR 1 / 3p-3c

ORDER

IN

CMP (MD) No.6024 of 2017

IN

SA (MD) No.SR15255 of 2017

Date :26/07/2017