



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2017

CORAM

THE HON'BLE MR.JUSTICE S.BASKARAN

C.M.P.(MD)No.5369 of 2016

in

S.A.(MD).No.SR16439 of 2016

1.Chatram Administrator,  
District Collector,  
Thanjavur.

2.Chatram Tahsildar,  
Thanjavur.

...Defendants/Respondents/Appellants

-Vs.-

Rathinakumar Memorial Educaitional Trust  
having its registered Office at Madurai branch,  
Rathinakumar Memorial Saratha Vidyalaya  
Matriculation School,  
Pattukkottai represented by its  
Correspondent.

...Plaintiff/Appellant/Respondent  
(in both)

Prayer in C.M.P.(MD)No.5369 of 2016: Petition is filed under Section 5 of Limitation Act, praying to condone the delay of 3178 days in filing this second appeal.

Prayer in S.A.(MD).No.SR16439 of 2016: Second Appeal is filed under Section 100 of Code of Civil Procedure, praying to set aside the judgment and decree of the Judgment and decree of the Sub-Court, Pattukkottai in A.S.No.61 of 2006 dated 26.04.2007 and reversed the judgment and decree awarded by the District Munsif, Pattukottai in O.S.No.11 of 2000 dated 10.03.2004 and allow the second appeal.

|                |                               |
|----------------|-------------------------------|
| For Appellants | : Mr.S.Kumar                  |
|                | Additional Government Pleader |
| For Respondent | : Mr.R.Rajaprabhu             |

#### JUDGMENT

The appellants have come up with this Civil Miscellaneous Petition to condone the delay of 3178 days in filing second appeal. A.S.No.61 of 2006, on the file of the Sub-Court, Pattukkottai, was allowed on 26.04.2007 and reversed the finding of the lower Court.

<https://hcservices.ecourts.gov.in/hcservices/> The appellants stated that the judgment and decree copy of the first appellate Court was misplaced in the office and the second appeal could not be filed in time. Hence,



the appellants filed a petition to condone the delay of 3178 days in C.M.P. (MD) No. 5369 of 2016.

3. On the other hand, the learned counsel for the respondent opposed the statement of the appellants that it would not be a valid reason to condone such enormous delay.

4. Admittedly, in the affidavit, the appellants stated that the judgment and decree copy of the first appellate Court was misplaced in the office and the action was initiated against the staff concerned. However, no specific details has been mentioned as to when the judgment and decree copy of the first appellate Court was obtained, misplaced and when it was found out again. Affidavit is bereft of details about missing of the judgment and decree copy of the first appellate Court more particularly as to when it was found out again. Thus no sufficient reason was given by the appellants to condone the delay of 3178 days. Hence this Civil Miscellaneous Petition is dismissed. Consequently, the connected Second Appeal is closed in the SR stage itself.

Sd/-  
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To

1. The Sub-Judge,  
Pattukkottai.

2. The District Munsif,  
Pattukkottai.

C.M.P. (MD) No. 5369 of 2016  
in  
S.A. (MD) No. SR16439 of 2016  
04.10.2017

sm/gsp  
JM/KP/SAR 2/23.10.2017/2P/3C