



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

Thursday, the Twelfth day of October Two Thousand Seventeen

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PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM

CMP(MD) No.7238 of 2017

in

CMP(MD)No.10334 of 2016 in CMP(MD)No.SR50299 of 2014

in

SA No.1030 of 1992

S.RAJAVEL

...PETITIONER/PETITIONER/2nd RESPONDENT

Vs

1 C.ARUMUGA PERUMAL PILLAI (DIED),

2 CHOCKALINGAM PILLAI

..2nd RESPOONDENT / 2nd RESPONDENT/
1st RESPONDENT

3 MANOHARADHAS

...3rd RESPONDENT /3rd RESPONDENT/
APPELLANT

Prayer in CMP(MD). 7238/ 2017 :

To restore the above C.M.P.(MD) No.10334 of 2016 in C.M.P.S.R(MD) No.50299 of 2014 in SA.No.1030 of 1992 dismissed for non prosecution on 7.7.2017 by this Honourable Court and thus render justice.

Prayer in CMP(MD)No.10334 of 2016:

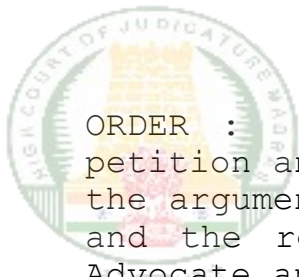
To condone the delay of 4335 days in filing the set aside petition in S.A.No.1030 of 1992 dated on 29.11.2002.

Prayer in CMP(MD)SR No.50299 of 2016:

To set aside the exparte decree passed by this Honorable Court on 29.11.2002 in S.A.No.1030 of 1992.

Prayer in S.A.No.1030 of 1992:

Second Appeal filed Under Section 100 of Civil Procedure Code against the Judgment and Decree dated 18.02.1992 made in A.S.No.80/1990 on the file of the District Court, Kanniyakumari at Nagercoil, reversing the judgment and Decree dated 23.02.1989 made in O.S.No.67/1986 on the file the Sub Court, Nagercoil.



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.A.ELIS CHITRA DEVI, Advocate for the petitioner and the respondents are not appeared either in person or by an Advocate and the court made the following order:-

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The petitioner is the first defendant in O.S.No.67 of 1986 on the file of the Sub-Court, Nagercoil. The said suit filed by the first respondent for specific performance was decreed on 23.02.1989 and the appeal preferred by the second defendant before the District Court, Nagercoil in A.S.No.80 of 1990 was dismissed. Against the concurrent findings, the second defendant preferred the above second appeal in S.A.No.1030 of 1992, which was also dismissed on 29.11.2002. The petitioner herein, who has already sold the property to the second defendant during the pendency of the suit, has filed this application to set aside the order passed in the second appeal stating that he was not served notice.

2.It is seen from the records that through out the entire proceedings the petitioner remained ex-parte and while dismissing the application in CMP(MD)No.10334 of 2016, which was filed by the petitioner to condone the delay of 4335 days, this Court held that the second appeal was dismissed on merits.

3.Taking into consideration the above facts, I have not find any merits in this petition. Hence, the petition is dismissed.

sd/-

12/10/2017

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

TO

1 THE DISTRICT JUDGE
KANYAKUMARI AT NAGERCOIL

2 THE SUBORDINATE JUDGE
NAGERCOIL

ORDER IN
CMP(MD) No.7238 of 2017 in
CMP(MD)No.10334 of 2016 in
CMP(MD)No.SR50299 of 2014 in
SA No.1030 of 1992
Date :12/10/2017

skn



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