



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

Thursday, the Second day of November Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice S.BASKARAN

CMP(MD) No.7983 of 2017

IN

SA(MD) No.SR30861 of 2017

THE WORAIYUR CO-OPERATIVE HOUSING SOCIETY LTD.,
R.NO.1387, REPRESENTED BY ITS SECRETARY,
N.C.14-A, 5TH MAIN ROAD, RAMALINGA NAGAR,
WORAIYUR, TRICHY-3. ... PETITIONER/APPELLANT

Vs

1 NABEESA @ AYISHA SIDDIKA
2 LOCAL PLANING AUTHORITY
TRICHIRAPALLI, REPRESENTED BY ITS EXECUTIVE AUTHORITY,
WILLIAMS ROAD, CONTONMENT, TRICHIRAPALLI-1.
3 TRICHIRAPALLI CITY CORPORATION
REPRESENTED BY ITS COMMISSIONER,
BHARATHIDASAN SALAI,CANTONMENT,
TRICHIRAPALLI. ... 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 212 days in filing the above SA(MD)SR.No. 30861 of 2017.

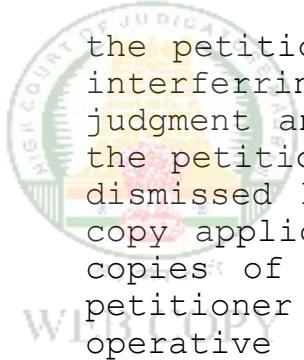
Prayer in SA(MD)SR.No. 30861 of 2017 :

To prefer the Memorandum of Grounds of Second Appeal file against the Judgment and Decrees dated 14.03.2016 made in A.S.No.30 of 2015 on the file of the II Additional Subordinate Judge, Tiruchirapalli by confirming the Judgment and Decree dated 27.11.2014 made in O.S.No.809 of 2010 on the file of the 1st Additional District Munsif Court, Tiruchirapalli.

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.R.DEVARAJ, Advocate for the petitioner and of MR.N.MOHAN, Advocate for R1 and MR.N.S.KARTHIKEYAN, for R2 & R3 the court made the following order:-

The petitioner has come forward with this petition to condone the delay of 212 days in preferring the Second Appeal.

2.The petitioner states that the first respondent herein filed a suit in O.S.No.809 of 2010 on the file of I Additional District Munsif, Trichy, seeking the relief of permanent injunction against



the petitioner / appellant and the respondents 2 and 3 herein from interfering with his possession. The said suit was decreed by judgment and decree, dated 27.11.2014 and aggrieved over the same, the petitioner herein filed A.S.No.30 of 2015 and the same was also dismissed by II Additional Sub Judge, Trichy on 14.03.2016. The copy application filed by the petitioner on 29.03.2016 seeking the copies of judgment and decree and the same was received by the petitioner on 24.10.2016. Subsequently, the petitioner being a Co-operative Housing Society has to get permission from his Higher Authorities and during the transit period, the bundle was mis-placed and during the last week of July 2017, he approached the counsel in trial Court to apply for one more copy of the judgment and decree and the same was obtained subsequently. Hence a delay of 212 days occurred in preferring the Second Appeal. The delay is neither wilful nor wanton. Hence the petitioner seeks to condone the delay in filing the Second Appeal.

3.On the other hand, the learned counsel for the first respondent contends that the reasons stated by the petitioner is not proper and no valid ground is made out to condone the delay. According to the first respondent, the contention about the bundle being mis placed and the delay due to the procedure adopted by the Society in getting permission from the Higher Authorities is not a ground to condone the delay. Hence the first respondent seeks dismissal of the petition.

4.The learned counsel for the second and third respondents also present and he has no serious valid objection to entertain this petition.

5.In the above said circumstances, considering the fact that the delay is only 212 days and the petitioner being a Co-operative Housing Society limited, it is possible that delay could have occurred in getting necessary permission of the Higher Authorities for filing the Second Appeal. In such circumstances, in the interest of the justice this Court is inclined to entertain this petition on condition.

6.In the result, this petition will be allowed on payment of Rs.500/- (Rupees Five Hundred only) by the petitioner to the High Court Legal Services Committee on or before 10.11.2017, failing which this petition will stand dismissed.

sd/-
02/11/2017

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



TO

1 II ADDITIONAL SUBORDINATE JUDGE, TRICHIRAPALLI.

2 I ADDITIONAL DISTRICT MUNSIF, TRICHIRAPALLI.

Copy to

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

ORDER
IN
CMP (MD) No.7983 of 2017
IN
SA (MD) No.SR30861 of 2017
Date :02/11/2017

MKV-PM-PN-SAR 4/7.11.2017/3P-4C