



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

Friday, the Tenth day of February Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice M.DURAI SWAMY

CMP(MD) No.9213 of 2016
IN
SA(MD) No.SR20809 of 2015

CHANDRA

... PETITIONER/APELLANT

Vs

1 NAGARAJAN
2 SIVARAMAN
3 THIRUNAVUKKARASU
4 ILANCHEZHIAN
5 SUNDAR

... 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 1171 days in filing the above second appeal and pass suitable orders and thus render justice.

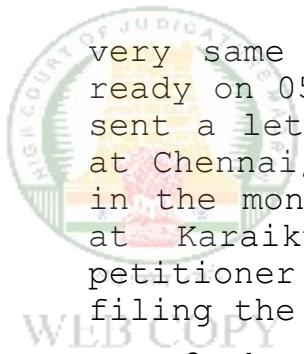
Prayer in SA(MD) No.SR20809 of 2015:-

To set aside the Judgement and Decree dated 15.07.2011 in A.S.No. 32/2011 on the file of Sub Court, Devakkottai confirming the judgment and decree of the trial court dated 14.11.2007 in I.A.No.348 of 2007 in O.S.No. 52/2000 on the file of Learned Principal District Munsif cum Judicial Magistrate, Karaikudi .

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.SUNDAR SRINIVASAN, Advocate for the petitioner and of M/S.N.BALAKRISHNAN, Advocate for the respondents the court made the following order:-

There is a delay of 1171 days in filing the Second Appeal.

2.In paragraph No.2 of the affidavit filed in support of the petition, the petitioner, who is aged 71 years, has stated that after the disposal of the appeal in A.S.No.32 of 2011, he shifted his residence from Karaikudi to Chennai for treatment. Further, he has stated that he shifted his residence to Chennai and somehow, he omitted to furnish his address to his counsel. He has also instructed his counsel to obtain the certified copies of the judgments and decrees for filing a Second Appeal and his counsel immediately, after the disposal of the appeal on 15.07.2011, on the



very same day filed a copy application and the copies were made ready on 05.06.2013. The petitioner has also stated that his counsel sent a letter to his Karaikudi address, however, since he was away at Chennai, he did not receive the letter sent by his counsel. Only in the month of April, 2015, the petitioner approached his counsel at Karaikudi and enquired about the case. Immediately, the petitioner filed the Second Appeal with a delay of 1171 days in filing the same.

3.Though the respondents filed their counter and disputed the averments made in the affidavit filed in support of the petition, Mr.N.Balakrishnan, learned counsel appearing for the respondents submitted that as against the connected appeal, the respondents have filed a second appeal in S.A(MD)No.1148 of 2008, which is pending before this Court and therefore, the delay in filing the appeal may be condoned on payment of cost.

4.In view of the submission made by the learned counsel for the respondents, in the interest of Justice, in order to give an opportunity to prosecute the Second Appeal, I am inclined to condone the delay on payment of cost.

5.Accordingly, the delay of 1171 days in filing the second appeal is condoned on condition that the petitioner paying a sum of Rs.7,500/- (Rupees Seven Thousand and Five Hundred Only) to the respondents within a period of one week from the date of receipt of a copy of this order, failing which the petition shall stand automatically dismissed without further reference to this Court. It is made clear that the petitioner is at liberty to pay the said sum of Rs.7,500/- (Rupees Seven Thousand and Five Hundred Only) to the learned counsel appearing for the respondents before this Court within the stipulated time.

6.Accordingly, this petition is ordered.

sd/-
10/02/2017

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

TO

1 THE SUBORDINATE JUDGE, DEVAKOTTAI.

2 THE PRINCIPAL DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE, KARAIKUDI.

ORDER
IN
CMP(MD) No.9213 of 2016
IN
SA(MD) No.SR20809 of 2015
Date :10/02/2017