



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

Monday, the Ninth day of January Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice M.DURAISWAMY

CMP(MD) No.9599 of 2016

IN

SA(MD) No.SR32063 of 2010

SRIL JOHN

... PETITIONER/PETITIONER/APPELLANT

Vs

1 NARAYANA POTRI

2 SRIL RAJAMANI

... RESPONDENTS/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 1799 days in filing the restoration petition in second appeal in S.A(MD)SR.No.32063 of 2010 on the file of this Honourable Court

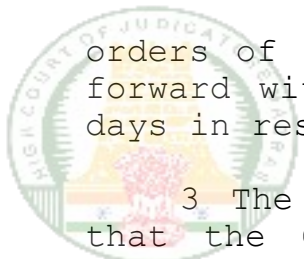
PRAYER IN SA(MD) No.SR32063 of 2010:

Second Appeal against the Judgment and decree passed by the Sub Court, Padmanabapuram in A.S.No.118/2006 dated 03.10.2007 in reversing the Judgment and Decree (partly allowed) passed by the Additional District Munsif Court, Padmanabapuram in O.S.No.390/2000 dated 31.03.2006.

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. V.ILLANCHEZIAN, Advocate for the petitioner and Mr.B.BRIJESH KISHORE, Advocate for R1, Mr.G.CENIL, Advocate for R2, the court made the following order:-

Heard both sides.

2 There is a delay of 1799 days in filing the petition to restore the petition in MP(MD)No.1 of 2010 in SA(MD)No.SR32063 of 2010. MP(MD)No.1 of 2010 has been filed by the petitioner to condone the delay of 808 days in filing the Second Appeal. Notice in that petition, this Court ordered notice returnable in three weeks on 16.08.2010. Since the petitioner/appellant failed to pay batta, this Court by order dated 27.09.2011, granted three weeks time to comply with the defects pointed out by the Registry and also made clear that failure to comply with the defects pointed out by the Registry shall result in dismissal of the petition automatically without further reference to this Court. Inspite of order dated 27.09.2011, the petitioner /appellant has not paid batta and complied with the



orders of this Court dated 27.09.2011. Now the petitioner has come forward with the present application to condone the delay of 1799 days in restoring the petition in MP(MD)No.1 of 2010.

3 The learned Counsel appearing for the petitioner submitted that the Counsel viz., Mr.R.Anburaj, who was appearing for the petitioner/appellant in the Second Appeal has become a District Judge in the year 2011 and hence, the petitioner was not in a position to contact him and ascertain the status of the matter. The learned Counsel further submitted that she entered appearance in the matter only in the year 2016 and filed the present application to condone the delay of 1799 days in filing the petition to restore the petition in MP(MD)No.1 of 2010.

4 The learned Counsel appearing for the respondents submitted that the petitioner has not explained for reasons for the delay in a proper manner.

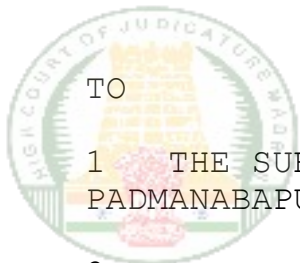
5 Since the petitioner has stated that the Counsel who was appearing for the petitioner has become a Judicial Officer, the petitioner was not in a position to contact him and get the details of the pending matter. I am satisfied with the reasons stated in the affidavit filed in support of the petition. However, since the delay is on higher side, the same can be condoned on payment of costs. Accordingly, the delay of 1799 days in filing a petition to restore the petition in MP(MD)No.1 of 2010 is condoned on condition the petitioner paying a sum of Rs.3,000/- (Rupees Three Thousand only) to the respondents within a period of two weeks from the date of receipt of a copy of this order. The petitioner shall pay the said amount by paying a sum of Rs.1,500/- (Rupees One Thousand Five Hundred only) to the counsel appearing for the first respondent and a sum of Rs.1,500/- (Rupees One Thousand Five Hundred only) to the Counsel appearing for the second respondent in this petition before this Court within the stipulated time, failing which, this petition shall stand dismissed automatically without further reference to this Court. If in the case of the petitioner failed to pay the amount within the stipulated time as stated above, this petition shall stand automatically dismissed without further reference to this Court.

6 Accordingly, this petition is ordere.

sd/-
09/01/2017

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



TO

1 THE SUBORDINATE JUDGE
PADMANABAPURAM

2 THE ADDITIONAL DISTRICT MUNSIF
PADMANABAPURAM

+1. C.C. to M/S. G.CENIL Advocate SR.No.1901

JAM/11.01.2017/SS 2-KSM/SAR 2 3P-4C

ORDER

IN

CMP (MD) No.9599 of 2016

IN

SA (MD) No.SR32063 of 2010

Date :09/01/2017