



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

Monday, the Nineteenth day of March Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice S.S.SUNDAR

CMP(MD) No.1124 of 2018
IN
SA(MD) No.SR47936 of 2010

SUBBIAH

... PETITIONER / APPELLANT

Vs

1 THANGAVELU
2 MANIMANTHIRI

3 KUTTAIYAN

...1to 3 RESPONDENTS / 1to3 RESPONDENTS

4 INNDULETCUMI

5 THE STATE OF TAMIL NADU

THROUGH ITS TIRUNELVELI DISTRICT COLLECTOR
TIRUNELVELI

6 THE TASHILDAR TASHILDAR OFFICE

SANKARANKOIL TALUK,

TIRUNELVELI DISTRICT4to6 RESPONDENTS / 4to6 RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to pass an Order condoning the Delay of 2541 days that has occurred in Representing the Appeal Papers in S.A.S.R.No.47936 of 2010 before this Honourable Court and pass such or other suitable orders which the Honourable Court may in the circumstances of the case may deem fit and proper and thus render justice.

PRAYER IN SA(MD) No.SR47936 of 2010:-

Decree and Judgment, allowing the Cross Appeal and allowing the Counter claim in the 1st Appeal in A.S.No.32 of 2008 by its Common Decree and Judgment passed in A.S.No.32 of 2008 by the Sub Court Sankarankoil on 02.03.2010, by Reversing the Dismissal Decree and Judgment passed in the Counter Claim by the Principal District Munsif Court Sankarankoil in O.S.No.453 of 2004 on 14.12.2007,

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.S.RAMESH ALIAS RAMIAH, Advocate for the petitioner and the Respondents not appeared either in person or by an Advocate, the court made the following order:-

<https://hcservices.ecourts.gov.in/hcservices/>
This petition is filed to condone the delay of 2541 days in representing the appeal papers in S.A.(MD)No.SR47936 of 2010.

2. Heard the learned counsel appearing for the petitioner.



3. Though notice was issued through Court as well as privately, the respondents refused to receive the same. The names of the respondents are also printed in the cause list. In this case, private notice was also permitted to the petitioner and proof affidavit has been filed by the petitioner showing that notice issued by the learned counsel for the petitioner was also returned with an endorsement "Refused".

4. Learned counsel for the petitioner submitted that the inordinate delay was explained by the petitioner in the affidavit filed in support of this petition. It is stated that his Advocate's residence cum Office was shifted to a new place and at the time of shifting some of the bundles along with other cases where the matter was disposed of were kept in Lumber room of the previous residence of the counsel and that the case bundle pertained to the above Second Appeal was by mistake kept in the old place. It is further stated that the petitioner was helpless as he did not know about the misplacement of the case bundle at the earliest time. It is further stated that his counsel was about to reconstruct the papers, after failing in search of the bundle. However, it is stated that the case bundle was located and found tagged with another old bundle of an another litigant, who appears in the same name. It is further stated that the petitioner's counsel represented the returned papers with delay.

5. The delay has been properly explained and there is no representation for the respondents to deny or dispute the contention of the petitioner explaining the delay. In such circumstances, this Court is not in a position to disbelieve the version of the petitioner and this Court is also convinced that the delay is only on account of misplacement of the case bundle by the petitioner's counsel during shifting of his office earlier.

6. Having regard to the fact that the delay is inordinate, this Court is inclined to allow this petition on terms.

7. As a result, this petition is allowed and the delay of 2541 days in representing the appeal papers in S.A.(MD)No.SR47936 of 2010 is condoned on condition that the petitioner shall pay a sum of Rs.10,000/- (*Rupees Ten Thousand only*) towards costs to the credit of *Hon'ble Chief Justice Relief Fund, Madurai Bench of Madras High Court, Madurai*, within a period of four weeks from the date of receipt of a copy of this order.

sd/-

19/03/2018

/ TRUE COPY /



TO

1 THE SUBORDINATE JUDGE,
SANKARANKOIL

2 THE PRINCIPAL DISTRICT MUNSIF
SANKARANKOIL

COPY TO:

THE SECTION OFFICER,
ACCOUNT SECTION, MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

PMU

JAM/06/04/2018/ CM-VR / SAR 1 / 3P-4C

ORDER
IN
CMP (MD) No.1124 of 2018
IN
SA (MD) No.SR49736 of 2010
Date :19/03/2018