



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

Tuesday, the Twenty Fourth day of April Two Thousand Eighteen

WEB COPY

PRESENT

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

CMP(MD) No.1491 of 2018
IN
SA(MD) No.SR43809 of 2017

(*)PITCHAI (DIED)

1.BATHAVIYA,
2 SYED ALI,

3 MOHAMMED MOHAIDEEN
4 MALAR NISHA
5 FATHIMA BEEVI,
6 AMJATHU BEEVI,

... PETITIONERS/APPELLANTS

(*)CAUSE TITILE ACCEPTED VIDE COURT

**ORDER DATED 14.12.2017 MADE IN CMP(MD)No.11056/17
IN SA(MD)No.SR.43809/2017 BY SBJ**

Vs

1 MARIAPPAN,
2 JAHIR HUSSAIN,

... RESPONDENT/RESPONDENT

(NO RELIEF IS SOUGHT AGAINST 2nd RESPONDENT AND HENCE NOTICE MAY BE
DISPENSED WITH REGARD TO 2ND RESPONDENT)

Petition praying that in the circumstances stated therein and
in the affidavit filed therewith the High Court may be pleased to
condone the delay of 1074 days in filing the above second appeal.

PRAYER IN SA(MD) No.SR43809 of 2017:

to Second Appeal and set aside the judgment and decree dated
25.08.2014 made in A.S.No.30 of 2011 on the file of Sub Court,
Ramanathapuram, confirming the judgment and decree dated 23.06.2008
made in O.S.No.20 of 2006 on the file of District Munsif Court,
Ramanathapuram, and to decree the said suit with costs throughout
and thus render justice.

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.ARUMUGAM for M/S.AJMAL ASSOCIATES, Advocate
for the petitioner and of MR.V.RAGHAVACHARI, Advocate for R1, the
court made the following order:-



This petition is filed to condone the delay of 1074 days in filing the second appeal.

2. In the affidavit filed in support of the petition, the fourth petitioner has stated that his father filed copy application for printed copies on 23.12.2014 and that he was waiting for the printed copies to come to file the second appeal. Since the printed copies were not ready and the petitioners father died on 12.02.2016, the petitioners states that he was constrained to file the second appeal with the certified copy. After getting the certified copy of the judgment and decree of the Court below, this appeal was filed because the defendant was taking steps to put up construction in the suit property. The petitioners states that it is only on account of the delay in getting the printed copies of judgment, the appeal could not be filed in time. The learned counsel appearing for the petitioners submits that the printed copies are not yet ready.

3. This contention was denied by the learned counsel appearing for the respondent. Hence, he was specifically directed to find out whether the printed copies are ready or not. However, there is no representation for the respondent today.

4. In these circumstances, this Court is inclined to accept the submission of the learned counsel appearing for the petitioners. In view of the long delay, this Court is inclined to allow the petition on term. The delay is condoned, subject to the condition that the petitioners shall pay a sum of Rs.2,000 to the first respondent.

sd/-
24/04/2018

/ TRUE COPY /

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

TO

1 THE SUBORDINATE JUDGE
RAMANATHAPURAM

2 THE DISTRICT MUNSIF
RAMANATHAPURAM

ORDER
IN
CMP(MD) No.1491 of 2018
IN
SA(MD) No.SR43809 of 2017
Date :24/04/2018