



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

Thursday, the Twenty Second day of February Two Thousand Eighteen

PRESENT

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

CMP(MD) No.1712 of 2018

IN

SA(MD) No.SR29941 of 2015

KANAGARAJ

... PETITIONER/APPELLANT

Vs

NAGAMANI

... RESPONDENT/RESPONDENT

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 940 days in representing the above Second Appeal and thus render justice.

PRAYER IN SA(MD) No.SR29941 of 2015:

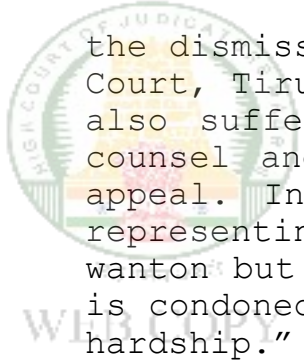
Second Appeal filed under Section 100 of Civil Procedure code, praying to prefer this Memorandum of Grounds of Second Appeal as against the judgment and decree of the Lower Appellate Court dated 24.06.2014 passed in A.S.No.57 of 2013 on the file of the Principal District Judge, Tirunelveli, confirming the Judgment and Decree of the Trial Court dated 17.04.2012 passed in O.S.No.375 of 2010 on the file of the II Additional Subordinate Court, Tirunelveli.

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.J.KARTHICK, Advocate for the petitioner the court made the following order:-

This petition is filed to condone the delay of 940 days in representing the above second appeal in S.A.(MD)No.SR.29941 of 2015.

2.In the affidavit filed in support of this petition, the petitioner has stated in paragraph 2 as follows:

"I submit that the above second appeal was initially filed on 15.07.2015 and the papers were returned by the Registry on 21.07.2015 for rectifying certain defects in filing. My counsel also directed me to get the copies of the papers relied by the lower Court in the fair order. Further after the judgment and decree in A.S.No.57 of 2013 on the file of the Principal District Court, Tirunelveli, I was negotiating with the respondent for adjusting the decretal amount from the amount to be paid by the respondent. After prolonging the matter for several days the respondent cited



the dismissal of O.S.No.409 of 2010 on the file of the Principal Sub Court, Tirunelveli and refused to adjust the amount. Moreover, I was also suffering from ill health and hence I could not contact my counsel and give the relevant papers for filing the above second appeal. In the meantime, there occurred a delay of 940 days in representing the above papers. The delay is neither willful nor wanton but due to the above said bonafide reasons. Unless the delay is condoned, the petitioner will be put to irreparable loss and much hardship."

3.The appeal has been filed against the money decree that was passed against the appellant. Considering the stand taken by the petitioner in the affidavit filed in support of this petition, the said affidavit may have some relevancy in deciding the appeal on merits. Though, the inordinate delay in representing the above appeal has not been properly explained, the learned Counsel for the petitioner states that the matter is likely to be settled.

4.Having regard to the other circumstances, this Court is inclined to entertain this petition on terms. As a result, this petition is allowed and the delay is condoned on condition that the petitioner pay a sum of Rs.2,000/ (Rupees Two Thousand only) to the Legal Services Authority, attached to this Bench within a period of two weeks from the date of receipt of a copy of this order, failing which this petition shall stand dismissed automatically without further reference to this Court. Registry is directed to number the above second appeal, if it is otherwise in order and after showing proof for payment.

sd/-
22/02/2018

/ TRUE COPY /

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

TO

1 THE PRINCIPAL DISTRICT JUDGE, TIRUNELVELI

2 THE II ADDITIONAL SUBORDINATE JUDGE, TIRUNELVELI

+1. C.C. to M/S.R.J.KARTHICK Advocate SR.No.2939

COPY TO : THE AUTHORISED OFFICER,
LEGAL SERVICES AUTHORITY,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

GJM/SMA/SAR-2-28.2.18-2P-5C

ORDER
IN
CMP (MD) No.1712 of 2018
IN
SA (MD) No.SR29941 of 2015
Date :22/02/2018