



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

Saturday, the Twenty Eighth day of April Two Thousand Eighteen

PRESENT

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

CMP(MD) No.1837 of 2018

IN

SA(MD) No.SR7590 of 2018

MOFENTO S.K.KALAKUMARI

... PETITIONER/ APPELLANT/
APPELLANT/ DEFENDANT

Vs

1 G.HENRY BALASING

2 A.THASAMMAL

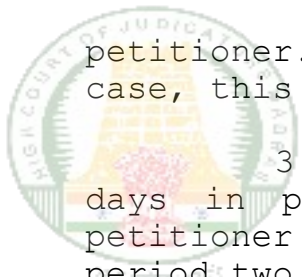
... RESPONDENTS/ RESPONDENTS/
RESPONDENTS/ PLAINTIFFS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to pass an order to condone the delay of 320 days in preferring the Appeal before this Honourable Court as against the decree and judgment of the Learned Principal Subordinate Judge, Nagercoil Kanyakumari District dated 06.01.2017 made in AS.No.70 of 2015 confirming the decree and judgment of the Learned Principal District Munsif, Nagercoil Kanyakumari District dated 04.09.2014 made in O.S.No.31 of 2012.

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.S.PALANIVELAYUTHAM, Advocate for the petitioner and of M/S.S.RAJASEKARAN, Advocate on behalf of the Respondents, the court made the following order:-

This petition is filed to condone the delay of 320 days in preferring this Second Appeal.

2.In the affidavit filed in support of this petition, the petitioner has admitted that the judgment was pronounced in the first appeal on 06.01.2017. Further, it is stated that his Advocate has failed to inform the petitioner and that only in the middle of 2017, the petitioner came to know about the pronouncement of the judgment by the lower appellate Court. Thereafter it is stated that the appeal has been filed after getting certified copy of the judgment and decree in January, 2018. Though the delay is inordinate, the petitioner has explained the delay in the affidavit filed in support of this petition. However, the fact that the petitioner did not know about the disposal of the appeal by the lower appellate Court cannot be readily believed and the respondents in the appeal cannot be prejudiced because of the negligence of the



petitioner. Having regard to the facts and circumstances of the case, this Court is inclined to allow this petition on terms.

3.As a result, this petition to condone the delay of 320 days in preferring an appeal is allowed on condition that the petitioner pay a sum of Rs.2,000/- to the respondents within a period two weeks from the date of receipt of a copy of this order.

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sd/-
28/04/2018

/ TRUE COPY /

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

TO

1. THE PRINCIPAL SUBORDINATE JUDGE,
NAGERCOIL, KANYAKUMARI DISTRICT.
2. THE PRINCIPAL DISTRICT MUNSIF,
NAGERCOIL, KANYAKUMARI DISTRICT.

ORDER
IN
CMP (MD) No.1837 of 2018
IN
SA (MD) No.SR7590 of 2018
Date :28/04/2018

MS/CM-VR/ASVM/04.05.2018/2P.3C