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

Friday, the Twenty Third day of March Two Thousand Eighteen

PRESENT

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

CMP(MD) No.2682 of 2018
IN
SA(MD) No.SR53134 of 2015

RAJESWARI ... PETITIONER/APPELLANT

Vs

GOPAL ... 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 569 days in representing the second appeal in SA.SR.53134/2015 filed against judgment and decree dated 6.7.2015 made in AS.No.23/2013 on the file of Additional District and Sessions Judge, Theni at Periyakulam reversing the well considered judgment and decree dated 9.4.2012 made in O.S.No.30/2009 on the file of Sub Judge, Periyakulam 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.R.SURIYANARAYANAN, Advocate for the petitioner, the court made the following order:-

This petition is filed to condone the delay of 569 days in re-presenting the above second appeal as against the judgment and decree dated 06.07.2015 made in A.S.No.23 of 2013 on the file of the Additional District and Sessions Judge, Theni at Periyakulam reversing the well considered judgment and decree dated 09.04.2012 made in O.S.No.30 of 2009 on the file of the Sub Judge, Periyakulam.

2.The petitioner / plaintiff has filed a suit for recovery of money against the respondent in this appeal. Though the suit was originally decreed, it is stated that the appeal filed by the respondent was allowed and the present appeal is filed by the appellant against the judgment and decree dismissing the suit for recovery of money against the respondent. It is stated in the affidavit that the papers which were filed in the appeal were returned on three occasions and lastly returned on 18.07.2017. It is further stated that due to the petitioner's old age and sickness, he

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could not follow up his counsel to give instructions. It is also stated that the case bundles got mixed up with the disposed bundle in his advocate office mistakenly and that there was a delay in representing the above appeal.

3.Though some reasons were stated in the affidavit filed in support of this petition, this Court is able to see that the delay is inordinate. Having regard to facts and circumstances of this case, this Court is inclined to allow this petition on terms. As a result, this petition is allowed on condition that the petitioner shall pay a sum of Rs.1,000/- (Rupees One Thousand only) to the Legal Aid Service Authority, attached to this Bench, within a period of three 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.

4.Registry is directed to number the second appeal, if the papers are otherwise in order, after showing proof for payment.

sd/-
23/03/2018

/ TRUE COPY /

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

TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THENI AT PETIYAKULAM.

2 THE SUBORDINATE JUDGE, PERIYAKULAM

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

COPY TO : THE SUB ASSISTANT REGISTRAR, AE SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CMP(MD) No.2682 of 2018
IN
SA(MD) No.53134 of 2015
Date :23/03/2018

PK/RR-CSL/SAR-1/27.03.2018 : 2P/5C

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