



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

Friday, the Second day of February Two Thousand Eighteen

PRESENT

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

CMP(MD) No.129 of 2017

IN

SA(MD) No.SR55390 of 2011

1 PACKIARAJ
2 RAJALAKSHMI

... PETITIONERS/APPELLANTS

Vs

CHELLADURAI

... 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 1586 days in representing the SASR.No.55390 of 2011 and thus render justice.

PRAYER IN SA(MD)No.SR.55390/2011

To prefer this Memorandum of Second Appeal against the Judgement and Decree passed in A.S.No.30 of 2010 dated 18.03.2011 on the file of the Subordinate Court, Sivakasi, by confirming the Judgement and Decree passed in O.S.No.495 of 2004 dated 29.04.2010 on the file of the District Munsif, Sivakasi.

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. P.SANTOSHKUMAR, Advocate for the petitioners and of M/S.M.VEDA SING, Advocate on behalf of the Respondent, the court made the following order:-

This petition has been filed by the petitioners/appellants to condone the delay of 1586 days in re-presenting the above second appeal.

2.This Court is satisfied with the reasons stated in the affidavit filed in support of this petition. It is stated that at the time of filing the second appeal, the petitioners' counsel asked them to bring the lower Court documents and exhibits that were filed in the suit. It is further stated that the petitioners could not bring the documents and to hand over the documents filed in the suit in time. It was only on account of the fact that there was some



delay in handing over the documents to the counsel for the petitioners, the petition could not be represented in time before this Court.

3.It is also stated that the delay had occurred on account of the inability of the petitioners. It is further stated that as the petitioners have not handed over the documents along with relevant records to the counsel for the petitioners the petition could not be re-presented immediately. It is in these circumstances, it is admitted that the huge delay of 1586 days had occurred in representing the papers, which were returned.

4.Though the delay has been explained, the petitioners have not given dates and full particulars. Having regard to the fact that the delay is inordinate and it has definitely caused some prejudice to the respondents, this Court is unable to condone the delay without any terms. Considering the position that in these kind of cases, some leniency is also required. This Court is inclined to exercise its discretion to condone the delay, subject to terms. As a result, this petition is allowed and the delay is condoned on condition that the petitioners pay a sum of Rs.5,000/- to the respondent counsel 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.

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

sd/-
02/02/2018

/ TRUE COPY /

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

TO
1 THE SUBORDINATE JUDGE, SIVAKASI
2 THE DISTRICT MUNSIF, SIVAKASI

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

ORDER
IN
CMP(MD) No.129 of 2017
IN
SA(MD) No.SR55390 of 2011
Date :02/02/2018