



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

Monday, the Twenty Ninth day of January Two Thousand Eighteen

WEB COPY

PRESENT

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

CMP(MD)Nos.11786 & 11787 of 2016
IN
SA(MD)Nos.SR18691 & SR18692 of 2016

1 ARUNACHALAMMAL
2 GOVINDAKRISHNAN
3 MARIAMMAL

... PETITIONERS/APPELLANTS
IN BOTH THE PETITIONS

Vs

1 M.PARAMASIVAN
2 MOOKKAMMAL
3 PUDHIYAVAL

... 1st RESPONDENT/1st RESPONDENT
IN BOTH THE PETITIONS

... RESPONDENTS 2&3/RESPONDENTS 2&3
IN CMP(MD) No.11786/16

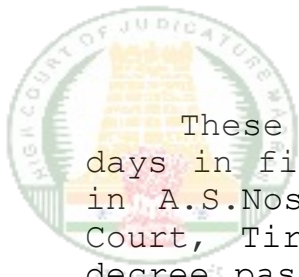
Prayer in CMP(MD). 11786/ 2016 :

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 608 days in filing this Second Appeal against the Judgment and Decree passed in A.S.No.90 of 2012 on the file of the Additional Sub Court, Tirunelveli dated 28.04.2014 confirming the Judgment and Decree passed in O.S.No.226 of 2008 on the file of the II Additional District Munsif Court, Tirunelveli dated 25.07.2011 and thus render justice.

Prayer in CMP(MD). 11787/ 2016 :

To condone the delay of 586 days in filing this Second Appeal against the Judgment and Decree passed in A.S.No.88 of 2012 on the file of the Additional Sub Court, Tirunelveli dated 28.04.2014 confirming the Judgment and Decree passed in O.S.No.442 of 2008 on the file of the II Additional District Munsif Court, Tirunelveli dated 25.07.2011 and thus render justice.

ORDER : These petitions coming on for orders upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of M/S.T.SELVAN, Advocate for the petitioner in both the petitions and of M/S.S.P.MAHARAJAN, Advocate on behalf of the Respondent 1 in both petitions and R2 in CMP(MD) No.11786/16 the court made the following order:-



These petitions are filed to condone the delay of 608 and 586 days in filing these appeals against the judgment and decree passed in A.S.Nos.88 and 90 of 2012 on the file of the Additional Sub Court, Tirunelveli, dated 28.04.2014, confirming the judgment and decree passed in O.S.Nos.226 and 442 of 2008 on the file of the II Additional District Court, Tirunelveli, dated 25.07.2011, which are connected.

2.The learned Counsel for the petitioners stated that the delay was due to non-filing of the copy application in time. Though there was an explanation for the delay, the delay cannot be accepted having regard to the time taken by them. It is also to be noted that pursuant to the judgment and decree of the trial Court, Execution Petition was filed and the matter was pending before the Executive Court. Since the matter was adjourned, before the Executive Court, for more than 30 occasions under the guise of pendency of the second appeal, this Court is also convinced that the petitioner has adopted delaying tactics without showing any interest in prosecuting matter on merits. However, considering the fact that the first petitioner is an aged lady and that she is an illiterate, this Court is inclined to show some indulgence. Hence, this petition is allowed on condition that the petitioner pay a sum of Rs.20,000/- towards cost to the respondents directly within a period of four weeks from the date of receipt of a copy of this order.

3.Registry is directed to number these second appeals, if the papers are otherwise in order.

sd/-
29/01/2018

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

TO

- 1 THE ADDITIONAL SUBORDINATE JUDGE, TIRUNELVELI.
- 2 THE II ADDITIONAL DISTRICT MUNSIF, TIRUNELVELI.
- 3 THE SECTION OFFICER,
JUDICIAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

ORDER
IN

CMP(MD)Nos.11786 & 11787 of 2016 IN
SA(MD)Nos.SR18691 & SR18692 of 2016
Date :29/01/2018