



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

Friday, the Fifth day of January Two Thousand Eighteen

PRESENT

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

CMP(MD) No.521 of 2017  
IN  
SA(MD) No.SR30720 of 2016

M/S.V.N.SURULIVEL NADAR BROS FIRM,  
REGN NO.489/1950, THROUGH ITS PARTNER,  
RAJMOHAN THIURMALAPURAM,  
BODINAYAKKANUR,  
THENI DISTRICT.

... PETITIONERS/APPELLANTS

Vs

- 1 STATE OF TAMILNADU THORUGH  
ITS DISTRICT COLLECTOR,  
THENI DISTRICT, THENI
- 2 THE DISTRICT FOREST OFFICER,  
THENI DISTRICT, THENI
- 3 THE FOREST RANGER  
DISTRICT FOREST OFFICE,  
BODINAYAKKANUR, THENI DISTRICT,

(CAUSE TITLE ACCEPTED VIDE COURT ORDER  
DATED.19.-.16 MADE IN CMP(MD)9839 OF 2016  
IN SASR 30720/16 BY SSSRJ) ... RESPONDENTS/RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to delay of 323 days in filing the second appeal against the judgment and decree dated 28.11.2014 made in A.S.No.44/2013 on the file of Subordinate Judge, Theni confirming the judgment and decree dated 17.10.2012 made in O.S.No.113/2004 on the file of District Munsif Cum Judicial Magistrate, Bodinayakkanur

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.SURIYA NARAYANAN, Advocate for the petitioner and of MR.D.MURUGANANTHAM, Additional Government Pleader for the respondents 1 to 3 the court made the following order:-

<https://hcservices.ecourts.gov.in/hcservices/> This petition is filed to condone the delay of 323 days in filing the Second Appeal against the Judgment and Decree, dated 28.11.2014 made in A.S.No.44 of 2013 on the file of the learned



Subordinate Judge, Theni, confirming the Judgment and Decree, dated 17.10.2012 made in O.S.No.113 of 2004 on the file of the learned District Munsif cum Judicial Magistrate, Bodinayakkanur.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

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3. In the affidavit filed in support of this petition, the petitioner stated that he was suffering with recurrent fever and he could not contact his counsel to get the copies. It is admitted that the copy application has been filed on 03.12.2014 and his counsel got the printed copies on 08.06.2015. Since the petitioner was ill and he could not move freely, he filed the appeal only in the first week of March, 2016. It is further stated that the delay had occurred due to petitioner's illness and that it is neither wilful nor wanton.

4. The second respondent filed a counter affidavit stating that the petitioner is a partnership firm. It is further contended that the delay cannot be condoned merely because one of the partners of the petitioner's firm fell sick and he could not move. Since the delay is willful and the delay is not explained properly, it is further pleaded that the petition is liable to be dismissed.

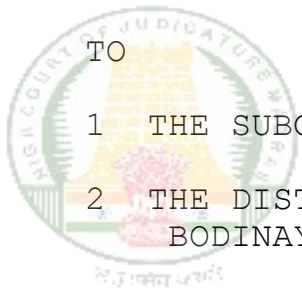
5. Having regard to the nature of dispute and the facts and circumstances stated in the affidavit filed in support of this petition, this Court is not able to see any explanation for not filing the appeal within time by any other partners of the petitioner's firm. However, it is to be noted that the partnership firm is represented by the petitioner.

6. In such circumstances, this Court is inclined to allow this petition, subject to terms as the delay is nearly one year. Hence, the petition is allowed and the delay is condoned subject to the condition that the petitioner pays a sum of Rs.5,000/- (Rupees Five Thousand only) to the respondents within a period of two weeks from the date of receipt of a copy of this order.

sd/-  
05/01/2018

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



TO

1 THE SUBORDINATE JUDGE, THENI

2 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,  
BODINAYAKKANUR

GJM/CM.VR.SAR-3-10.11.2018-3P-3C

ORDER

IN

CMP (MD) No.521 of 2017

IN

SA (MD) No.SR30720 of 2016

Date :05/01/2018