



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

Tuesday, the Third day of April Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice M.SUNDAR

CMP(MD) No.6765 of 2017
IN
SA No.832 of 2004

TAMIL NADU NEWSPRINT & PAPERS LIMITED
REPRESENTED BY ITS LEGAL CO-ORDINATOR,
MR.S.MEENAKSHISUNDARAM,
HAVING ITS REGD OFFICE AT
NO.67, MOUNT ROAD, GUINDY,
CHENNAI-600 032.

... PETITIONER/APELLANT

Vs

1 MANICKA NADAR (DECEASED) ...1st RESPONDENT/RESPONDENT

2 M.APPADURAI NADAR,

3 M.MAHARAJAN

4 MRS.PAULKANI

(Respondents 2 TO 4 ARE LEGAL HEIRS OF
LATE MANICKA NADAR)

... RESPONDENTS/PROPOSED RESPONDENTS

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 19 days in filing the restoration petition in the above appeal, which was dismissed on 12.10.2006 and thus render justice.

PRAYER IN SA.NO.83/2004 :

To allow the appeal reverse and set aside the judgment and Decree dated 09.09.2003, in A.S.No.51 of 2003, on the file of Principal District Court, Thirunelveli reversing the Judgment and Decree dated 17.06.2002 in O.S.No.301 of 1994, on the file of the District Munsif Court, Valliyoor with costs in favour of the Appellant throughout and 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.M.P.SENTHIL, Advocate for the petitioner and of M/S.V.GEORGE RAJA, Advocate for R2 and for R3 & R4 not appearing



either in person or by an advocate the court made the following order:-

Petitioner herein is the sole appellant in the main appeal. Respondents 2 to 4 herein are legal heirs of deceased sole respondent in the main second appeal.

2 Parties in this petition are referred to by their respective ranks in the main second appeal for the sake of convenience and clarity.

3 In the second appeal of the year 2004, sole respondent was one Manicka Nadar and I am informed that he died on 23.9.2004.

4 It is the case of the appellant that they came to know about the demise of Manicka Nadar only on 12.10.2006 in the course of the hearing of the second appeal. Thereafter, there was a delay in gathering details regarding the legal heirs and filing appropriate petition to bring on record the legal heirs of deceased Manicka Nadar. This caused abatement necessitating an application for setting aside abatement and an application for condonation of delay in filing the application to set aside the abatement. I am informed that these applications were filed, but there was delay in representation. The delay in representation of these applications were ultimately condoned by this court vide order dated 16.06.2017 made in M.P.(MD)No.1 of 2012.

5 Under these circumstances, the sole appellant in the main second appeal has come up with the instant petition with a prayer for condoning 19 days delay in filing the restoration petition.

6 To be noted, the aforesaid application to bring legal heirs of deceased sole respondent can be processed and brought up for hearing only after restoration of the instant second appeal.

7 Learned counsel Mr.V.George Raja, representing the counsel on record for second respondent opposes this application, stating that there is considerable delay in taking steps and therefore, appellant does not deserve indulgence.

8 However, as mentioned supra, the delay in representation has already been condoned by this court on 16.6.2017. It is also seen that the delay in representation has been condoned subject to payment of cost and the order reads as follows :

"Heard the learned counsel for the petitioner and the learned counsel for the respondents.

2.The learned counsel for the respondents strongly objected that such delay in representing does not deserve to be done, as it shows a poor attitude of the appellant in prosecuting the appeal.

3.However, in the substantial interest of justice, this court considered its appropriate to allow this application on condition that the petitioner is directed



to pay a sum of Rs.1,000/- (Rupees One Thousand only) to the respondents within a period of one week, from the date of receipt of a copy of this order, failing which, this petition is dismissed automatically without any further reference to this Court."

9 I am also informed that there is no disagreement that costs have been paid. Therefore, I am unable to countenance the second respondent's opposition to the instant application.

10 In the light of the narrative supra, this application is allowed and delay of 19 days in filing the restoration petition is condoned.

sd/-
03/04/2018

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

TO

1 THE PRINCIPAL DISTRICT COURT,
THIRUNELVELI.

2 THE DISTRICT MUNSIF,
VALLIYOOR.

ORDER
IN
CMP (MD) No.6765 of 2017
IN
SA No.832 of 2004
Date :03/04/2018

SDS/CM:VR/VK/17.04.2018/3P/3C