



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

Thursday, the Ninth day of August Two Thousand and Eighteen

PRESENT

The Hon`ble Ms.Justice V.M.VELUMANI

CMP (MD) No.7280 of 2017

IN

CMA (MD) No.SR28535 of 2017

S.K.SAMPATH

... PETITIONER / APPELLANT

Vs

M.KATHIRVEL

... 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 990 days in filing of the above Civil Miscellaneous Appeal.

Prayer in C.M.A (MD)SR.No.28535 of 2017

To set aside the petition and docketal order made in I.A.No.62 of 2014 in O.S.No.8 of 2014 on the file of District Judge, Karur, dated 25.07.2014.

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.S.GOKULRAJ, Advocate for the petitioner and the respondent not appeared either in person or by an Advocate the court made the following order:-

The present petition is filed to condone the delay of 990 days in filing the Civil Miscellaneous Appeal challenging the order dated 25.07.2014.

2. The petitioner is the defendant in O.S.NO. 8 of 2014 on the file of the District Judge, Karur. The respondent filed the said suit for recovery of money against the petitioner. The respondent also filed I.A.NO.62 of 2014 in O.S.No. 8 of 2014 under Order 38 Rule 5 C.P.C seeking attachment before judgment of the immovable property mentioned in the petition.

3. According to the petitioner, the petitioner filed a counter affidavit denying the averments of the respondent.

4. The learned Judge erroneously returned the counter affidavit filed by the petitioner and allowed the application. After obtaining certified copy of the order, the petitioner could not file an appeal immediately due to financial problem and medical expenses.

5. From the materials on record, it is seen that the suit is for recovery of money and the Interlocutory Application filed by the petitioner for attachment before judgment was ordered on 25.07.2014. The petitioner has filed an appeal challenging the said order on 17.07.2017 after 990 days. The reasons given by the petitioner are not sufficient to condone the delay. Hence, this petition is dismissed.

6. However, the suit is of the year 2014. The learned District Judge, Karur, is directed to dispose of O.S.No. 8 of 2014 on merits and in accordance with law within a period of 3 months from the date of receipt of this order.

sd/-
09/08/2018

/ TRUE COPY /

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

TO

THE DISTRICT JUDGE,
KARUR.

+1. C.C. to M/S.S.GOKULRAJ, Advocate, SR.No.77750.

ORDER
IN
CMP (MD) No.7280 of 2017
IN
CMA (MD) No.SR28535 of 2017
Date :09/08/2018

RAM/MMS/SAR 1/27.08.2018/2P/3C