



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

Tuesday, the Ninth day of January Two Thousand Eighteen

PRESENT

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

CMP(MD) No.8244 of 2017
IN
SA(MD) No.SR27152 of 2017

1 LATHA
2 NARAYANAN

... PETITIONERS / APPELLANTS

Vs

SUSILA (DECEASED)
1. DURGA
2 KAVITHA
3 SATHYA
4 DEIVANAYAGI

... RESPONDENTS / RESPONDENTS

**(CAUSE TITLE ACCEPTED, VIDE COURT ORDER
DATED 29.08.17 MADE IN CMP(MD)No.7984/17
IN SA(MD)SR.27152/17 BY PSNJ)**

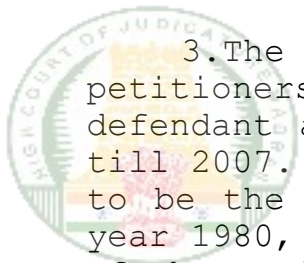
Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to condone the delay of 2647 days in filing the Second Appeal in SA.S.R(MD)No. 27152 of 2017.

PRAYER IN SA(MD) No.SR27152 of 2017:-

to set aside the judgement and decree passed dated 19.11.2009 made in A.S.No.72 of 2008 on the file the Additional Sub Court, Kumbakonam, reversing the judgement decree passed dated 09.06.2008 made in O.S.No.63 of 2007 on the file of the Principle District Munsif Court, Valangaiman at Kumbakonam and allow this 2nd Appeal and thus 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. G.GOMATHI SANKAR, Advocate for the petitioner and of Mr.S.RAJAPRABHU, Advocate for R1 to R3, Mr.J.SUTHAKARAN, Advocate for R4, the court made the following order:-

This petition is filed to condone the delay of 2647 days in filing the above second appeal as against the judgment and decree dated 19.11.2009 in A.S.No.72 of 2008 on the file of the Additional Sub Court, Kumbakonam.



3.The petitioners are brother and sister. It is stated that the petitioners have purchased the suit properties from the third defendant and they are in possession and enjoyment of the property till 2007. However, it is stated that the respondents herein claimed to be the persons in possession, pursuant to the sale deed of the year 1980, thereby, disturbing the peaceful possession and enjoyment of the petitioners and are trying to grab the suit properties. It is true that the respondents have filed O.S.No.63 of 2007 and the same was dismissed. Thereafter, the appeal preferred by the respondents in A.S.No.72 of 2008 was allowed by the lower Appellate Court. Aggrieved over the same, this second appeal has been preferred by the petitioners.

4.Though the delay is inordinate, it is stated by the petitioners that in view of the compromise talks that was going between the petitioners and the respondents, they did not file this second appeal in time. It is the case of the petitioners that a compromise talk was going on and an agreement was also reached. It is further contended that the petitioners did not bother about further appeal, as the entire dispute was about to be dissolved.

5.The respondent has serious objection for condoning the delay. It is the specific case of the respondent that there was no settlement talks between the parties. It is further stated that the petitioner's made an attempt to encroach upon the suit properties, despite the order of injunction.

6.Considering the fact that the petitioner has not stated any plausible or convincing reasons for condoning the inordinate delay. However, having regard to the peculiar facts and circumstances of the case, this Court is of the view that an opportunity can be given to the petitioners to adjudicate the dispute on merits subject to payment of substantial amount towards cost.

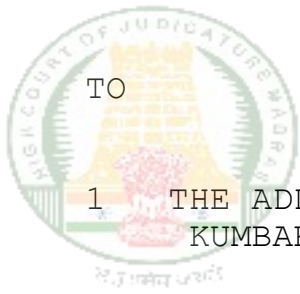
7.In result, this petition is allowed and the delay is condoned, subject to payment of Rs.30,000/- (Rupees Thirty Thousand only) to the respondents, either directly or through their counsels within a period of two weeks from the date of receipt of a copy of this order.

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

sd/-
09/01/2018

/ TRUE COPY /

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



TO

1 THE ADDITIONAL SUBORDINATE JUDGE,
KUMBAKONAM

2 THE PRINCIPLE DISTRICT MUNSIF
VALANGAIMAN AT KUMBAKONAM

COPY TO:

THE SECTION OFFICER,
A.E SECTION, MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

JAM/31/01/2018/CM-VR/ SAR 4 / 3p-4c

ORDER
IN
CMP (MD) No.8244 of 2017
IN
SA (MD) No.SR27152 of 2017
Date :09/01/2018