



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

Tuesday, the Sixth day of February Two Thousand Eighteen

WEB COPY

PRESENT

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

CMP (MD) No.8995 of 2017

IN

SA (MD) No.SR38096 of 2017

P.JEGANATHAN

... PETITIONER/APPELLANT

Vs

1 S.S.GOVINDAN

2 P.MARIYAPPAN (DIED)

3 YASOTHAI

4 DHANASEKARA PANDIYAN

5 RAJASEKARA PANDIYA

6 GUNASEKARA PANDIYAN

7 RAJALAKSHMI

... RESPONDENTS/RESPONDENTS

(RESPONDENT 2 WAS DIED, RESPONDENT No.5 SET EXPARTY,
SO NOTICE MAY DISPENSE)

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 425 days for filing this second appeal and thus render justice.

PRAYER IN SA (MD) No.SR38096 of 2017:

To set aside the decree and judgement passed by the Sub Court, Virudhunagar in A.S.No.11/2013 dated 22.04.2016 by confirming the decree and judgement passed by the District Munsif Court, Virudhunagar in O.S.No.263/2006 dated 09.10.2009, by allowing this Second Appeal and to grant such other relief or reliefs that this Hon'ble Court.

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.GOWRISHANKAR, Advocate for the petitioner and of M/S.A.ARUMUGAM, Advocate for AJMAL ASSOCIATES for R1, and R3, R4, R6, R7 not appeared in person or by an advocate, the court made the following order:-

<https://hcservices.ecourts.gov.in/hcservices/>
This petition is filed to condone the delay of 425 days in filing the above Second Appeal.



2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the first respondent.

3. The reasons stated in the affidavit filed in support of this petition is that the petitioner due to his poor financial situation and sickness, was unable to file this Second Appeal in time. It is also stated that the petitioner is taking treatment at Bangalore, in his son's place for Sugar complaint.

4. Learned counsel for the first respondent has filed a counter affidavit and submitted that the counter affidavit is only a formal one.

5. Though some reasons stated in the petition for condoning the delay, this Court is unable to accept the reasons that due to poor financial situation, the delay had occurred. The subject matter of litigation appears to be a loan and there is no requirement of paying exorbitant amount towards Court fee requiring the petitioner to spend huge money before filing the Second Appeal. Since the delay is 425 days, this Court is inclined to allow this petition on terms so as to compensate the respondents.

6. Considering the length of delay and the prejudice that is caused to the respondents on account of delay, the petition is allowed on condition that the petitioner pays a sum of Rs.5,000/- (*Rupees Five Thousand only*) to the first respondent, within a period of two weeks from the date of receipt of a copy of this order.

sd/-
06/02/2018

/ TRUE COPY /

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

TO

1 THE SUBORDINATE JUDGE, VIRUDHUNAGAR

2 THE DISTRICT MUNSIF, VIRUDHUNAGAR

+1. C.C. to M/S.AJMAL ASSOCIATES, Advocate SR.No.2175

ORDER
IN
CMP (MD) No.8995 of 2017
IN
SA (MD) No.SR38096 of 2017
Date : 06/02/2018