



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

Thursday, the Twenty Ninth day of November Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice S.S.SUNDAR
and
The Hon`ble Mr.Justice C.SARAVANAN

CMP(MD) No.8745 of 2018
IN
AS(MD) No.SR52810 of 2017

RAJA HOLDINGS (FIRM)
REP.BY ITS MANAGING PARTNER,
R.V.SUBRAMANIAM

... PETITIONER/APPELLANT

Vs

1 N.NAVANEETHAKRISHNAN
2 N.KANTHIMATHI
3 S.RAJINIKANTH
4 R.MEENAKSHI

... RESPONDENTS/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 232 days in filing the appeal against the judgment and decree dated 23.12.2016 in O.S.No.51 of 2013 on the file of the Principal District Judge, Thanjavur and pass such further or other orders as this Hon`ble court may deem fit and proper in the circumstances of the case and thus render justice.

PRAYER IN AS(MD) No.SR52810 of 2017 :

To set aside the judgment and final decree dated 23.12.2016 in O.S.No.51 of 2013 on the file of the Principal District Judge, Thanjavur in so far as it is against the Appellants and grant the decree as prayed for in favour of the Appellants against the Defendants 3 and 4 as well and pass such further or other orders.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MRS.AL.GANTHIMATHI, Advocate for the petitioner and of MR.V.K.VIJAYARAGHAVAN, Advocate for R1 & R2 and MR.S.BALARAMAN, Advocate for R3 & R4, the court made the following order:-

[Order of the Court made by **S.S.SUNDAR, J.**]

This petition is filed to condone the delay of 232 days in filing the appeal against the judgment and decree dated 23.12.2016 in O.S.No.51 of 2013 on the file of the Principal District Court, Thanjavur.



2.The learned Counsel appearing for the respondents who has not filed any counter, however, submitted that time should be given for filing counter. This petition has been filed in 2017 and there is no justification for adjoining this matter for filing counter.

3.In the affidavit filed in support of this petition, the petitioner has stated that he could not collect the papers from the advocate concerned in Tanjavur, for filing the appeal in time. Though the delay is inordinate on account of getting required papers for filing the appeal, this Court is of the view that the delay could have been avoided, if due diligence is shown. However, we can not ignore the reasons stated in the affidavit filed in support of this petition. Hence, this Court is of the view that the petition can be allowed on terms.

4.Accordingly, the delay is condoned and the petition is allowed on condition that the petitioner pay a sum of Rs.10,000/- (Rupees Ten Thousand) to the credit of the Honourable Chief Minister Relief Fund with a specific reference to the Cyclone Ghaja within a period of two weeks from the date of receipt of a copy of this order.

5.On filing proof of compliance, Registry is directed to number the appeal, if the papers are otherwise in order.

sd/-
29/11/2018

/ TRUE COPY /

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

TO
THE PRINCIPAL DISTRICT JUDGE, THANJAVUR.

+1. C.C. to M/S.AL.GANTHIMATHI Advocate SR.No. 22541

COPY TO:

- 1 THE CHIEF MINISTER RELIEF FUND,
SPECIAL CELL, FORT. ST.GEORGE, CHENNAI.
- 2 THE SUB ASSISTANT REGISTRAR,
AE SECTION, MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CMP(MD) No.8745 of 2018
IN
AS(MD) No.SR52810 of 2017
Date :29/11/2018