

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 17.12.2019
CORAM:
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
C.M.P.No.14133 of 2003
in
A.S.No.SR69793 of 2003

M.Yogabalakrishnan

...Petitioner/Appellant

Vs.

1.B.Ganesammal

2.A.B.Duraisamy

3.E.Rukmani

4.M.Jegannathan

5.S.Duraiswamy

6.A.Selvaraj

7.V.Thangavel

...Respondents

Civil Miscellaneous Petition filed under Section 5 of Limitation Act, to condone the delay of 144 days in filing above appeal.

Prayer in AS Sr69793 of 2003:

Appeal filed under Section 96 of CPC., to set aside the Judgment and Decree dated 08.10.2002 made in O.S.No.145 of 1997 on the file of the Subordinate Judge, Bhavani and allow this appeal.

For Petitioner : No Appearance
For Respondents : R4 to R7 - Given up

ORDER

This Civil Miscellaneous Petition is filed to condone the delay of 144 days in filing the Appeal Suit against the Judgement and Decree passed in O.S.No.145 of 1997 on the file of the Subordinate Court, Bhavani, Erode District.

2.The condone delay petition is filed on 18.07.2003 and almost 16 years lapsed. Even now, the petitioner/appellant has not taken steps to serve notice to the respondents. Batta also

not filed as per the report of the Registry of this Court. Even the reason stated in the affidavit filed in support of this petition is neither candid nor convincing.

3.Keeping the condone delay pending, parties cannot take undue advantage, which would cause prejudice to the interest of the opposite parties, who are all decree holders.

4.Once the miscellaneous petition is filed or an Appeal Suit is filed, then steps are to be taken to serve notice to the respondents and failure in this regard should be viewed seriously, as long pendency and litigation would cause prejudice to all other parties.

5.In the present case, the miscellaneous petition was filed on 18.07.2003 and till date, notice is not served to the respondents and even, batta has not been filed. Under these circumstances, this Court is not inclined to condone the delay, as the petitioner/appellant has not initiated any action even to serve notice to the respondents.

6.Accordingly, the C.M.P.No.14133 of 2003 stands dismissed and consequently, A.S.SR.No.69793 of 2003 stands rejected. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy//

Sub Assistant Registrar

hvk

To

The Subordinate Court,
Bhavani, Erode District. सत्यमेव जयते

Copy to: The Section Officer, V.R. Section,
High Court, Madras.

WEB COPY

C.M.P.No.14133 of 2003
in
A.S.No.SR69793 of 2003

PM(CO)
CSR: 29/01/2020