

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.11.2018

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The Honourable Ms.Justice P.T.ASHA

**C.M.P.No.7128 of 2018
and
S.A.No.SR20519 of 2018**

1.The Chairman (URC),
Embarkation Headquarters,
Fort St.George, Chennai - 600 009.

2.The Commandant,
Embarkation Headquarters,
Fort St.George, Chennai - 600 009.

...Appellants in S.A.No.SR20519 of 2018 &
Petitioners in C.M.P.No.7128 of 2018

Versus

S.Thomas

...Respondent in S.A.No.SR20519 of 2018 &
C.M.P.No.7128 of 2018

Prayer in C.M.P.No.7128 of 2018:

This Civil Miscellaneous Petition is filed under Order 41 Rule 3(A) r/w Order 42 Rule 1 of C.P.C praying to condone the delay of 118 days in filing the SA.No.SR20519 of 2018 against

judgment and decree passed in A.S.No.34 of 2016 dated 05.10.2016 by the Hon'ble VII Additional City Civil Court, Chennai.

Prayer in S.A.No.SR20519 of 2018:

This Second Appeal is filed under Section 100 of C.P.C praying to set aside the judgment and decree dated 05.10.2016 passed in A.S.No.34 of 2016 by the Hon'ble VII Additional City Civil Judge, Chennai, reversing the judgment and decree of the trial Court in O.S.No.4650 of 2015 dated 23.11.2015 passed by the Hon'ble XVII Assistant City Civil Judge, Chennai.

For Appellants in
S.A.No.SR20519 of 2018
& Petitioners in
C.M.P.No.7128 of 2018 : No Appearance

For Respondent
in S.A.No.SR20519 of 2018 &
C.M.P.No.7128 of 2018 : Mr.S.Sadashalam

J U D G M E N T

It is seen from the records that by an order dated 17.07.2018, this Court had condoned the delay of 118 days in filing the Second Appeal, subject to the petitioners paying a sum of Rs.1,000/- to the counsel appearing for the respondent within a week from the date of that order.

2. Thereafter, when the matter came up on 19.11.2018, the learned counsel appearing for the respondent would submit that the order of this Court dated 17.07.2018 has not been complied with. Hence, the matter was directed to be listed under the caption, "For Orders" on 22.11.2018 i.e., today.

3. Today(22.11.2018), when the matter was called, there is no representation for the petitioners.

4. The learned counsel appearing on behalf of the respondent would submit that the costs of Rs.1,000/- has not been paid by the petitioners as per the aforesaid order of this Court dated 17.07.2018.

5. It is seen that ever before the said order dated 17.07.2018, the learned counsel for petitioners has been absent on several occasions and the matter was earlier posted thrice under the caption, "For Dismissal". This clearly demonstrates the reluctance on the part of the counsel for the petitioners to proceed with the matter.

P.T.ASHA, J.,

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6. In the result, the order passed by this Court in C.M.P.No.7128 of 2018 dated 17.07.2018 shall stand vacated for non-compliance of the same and the Civil Miscellaneous Petition is dismissed. Consequently, S.A.No.SR20519 of 2018 is also rejected. No costs.

22.11.2018

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To

1.The VII Additional City Civil Judge,
Chennai.

2.The XVII Assistant City Civil Judge,
Chennai.

C.M.P.No.7128 of 2018
and
S.A.No.SR20519 of 2018



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