

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2019

CORAM

THE HON'BLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)Nos.2671 to 2674 of 2011

- 1 Velliyan @ Rajendiran
- 2 N.Dharmalingam
- 3 Smt. Chinnammal
- 4 Smt. Dhanam

... Petitioners in all CRPs

- 1 Smt. Muniammal
- 2 Mr. Velusamy
- 3 Thiru. A.T.Gunasekran
- 4 Thiru Magudeeswaran
- 5 Thiru. Mahendran
- 6 Mr. Thandavan
- 7 Mr.Sekar

... Respondents in both CRPs

C.R.P.(NPD)No.2671/2011 filed under Article 227 of the Constitution of India, against the order of rejection of un-numbered I.A. of 2011 in A.S.No.Nil, dated 21.02.2011 made in condone delay application to condone the delay of 1587 days in representing the Appeal Suit on the file of the learned Principal Subordinate Judge at Salem.

C.R.P.(NPD)No.2672/2011 filed under Article 227 of the Constitution of India, against the order of rejection of un-numbered I.A. of 2011 in A.S.No.Nil, dated 21.02.2011 made in condone delay application to condone the delay of 53 days in representing the Appeal Suit on the file of the learned Principal Subordinate Judge at Salem.

C.R.P.(NPD)No.2673/2011 filed under Article 227 of the Constitution of India, against the order of rejection of un-numbered I.A. of 2011 in A.S.No.Nil, dated 21.02.2011 made in condone delay application to condone the delay of 540 days in representing the Appeal Suit on the file of the learned Principal Subordinate Judge at Salem.

C.R.P.(NPD)No.2674/2011 filed under Article 227 of the Constitution of India, against the order of rejection of un-numbered I.A. of 2011 in A.S.No.Nil, dated 21.02.2011 made in condone delay application to condone the delay of one day in representing the Appeal Suit on the file of the learned Principal Subordinate Judge at Salem.

For Petitioners : Mr.P.A.Chithramani

For Respondents : No Appearance - for R1 to R6
R7 - Not Ready in Notice

COMMON ORDER

Since the matter pertains to the appeal filed by the petitioners challenging the decree passed in O.S.No.148 of 1995, all the four Civil Revision Petitions are disposed of by this common order.

2. Challenging the rejection orders dated 21.02.2011 passed in un-numbered Interlocutory Applications in an un-numbered Appeal, the plaintiffs have filed the above Civil Revision Petitions.

3. Aggrieved over the dismissal of the suit in O.S.No.148 of 1995, dated 23.11.1998, the plaintiffs filed an appeal in February 1999 before the Principal Subordinate Judge at Salem. Subsequently, the papers were returned for rectifying the defects pointed out by the Registry. On the first occasion, the papers were represented with a delay of one day, thereafter, on the second occasion, the papers were represented with a delay of 540 days, on the third occasion, the papers were represented with a delay of 53 days and on the fourth occasion, the papers were represented with a delay of 1587 days.

4. In the affidavit filed in support of the applications, the petitioners-plaintiffs have given some unacceptable reasons, which was not accepted by the Lower Appellate Court.

5. The plaintiffs filed the suit in O.S.No.148 of 1995 against the respondents for bare injunction and after contest, the suit was dismissed on 23.11.1998.

6. The appeal was filed in the month of February 1999. The petitioners should have prosecuted the appeal in a proper manner. The inaction on the part of the petitioners would only establish that they were not diligent in prosecuting the matter. In the judgment reported in **2015 (1) SCC 680 [H.Dohil Constructions Company Private Ltd. v. Nahar Exports Limited and another]**, the Hon'ble Supreme Court held that unless a party seeking for condonation of the delay gives sufficient cause for the delay, the delay should not be condoned. In the case on hand, the papers were returned not on one occasion, but, on four occasions. As already stated, the suit was filed in the year 1995 and after a lapse of nearly 24 years, the petitioners cannot be allowed to prosecute

the appeal, since the fault is only on the petitioners in not prosecuting the appeal in a proper manner.

7. The ratio laid down by the Hon'ble Supreme Court of India in the judgment reported in **2015 (1) SCC 680 (cited supra)** squarely applicable to the facts and circumstances of the present case.

8. In these circumstances, I do not find any reason to interfere with the orders passed by the Lower Appellate Court. The Civil Revision Petitions are devoid of merits and are liable to be dismissed. Accordingly, the Civil Revision Petitions are dismissed. No costs.

28.06.2019

Index : Yes/No

Rj

To

The Principal Subordinate Court,
Salem.

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M. DURAISWAMY,J.,

Rj



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