

C.M.P.No.11643 of 2019
in
A.S.S.R.No.42540 of 2019

S.M.SUBRAMANIAM, J.

The present Civil Miscellaneous Petition is filed to condone the delay of 565 days in filing the First Appeal against the judgment and decree dated 19.04.2017 passed in O.S.No.5479 of 2012.

2.The learned counsel appearing on behalf of the petitioner states that respondents 1 to 4 herein as plaintiffs filed suit in O.S.No.5479 of 2012 for partition. The suit was decreed in favour of the plaintiffs and 8th defendant. The petitioner filed the First Appeal with a delay of 565 days and the reasons in paragraph 5 of the affidavit filed in support of the Civil Miscellaneous Petition is that the Trial Court delivered judgment on 19.04.2017. The petitioner could not be in a position to take steps to file an appeal immediately and his wife was sick even at that point of time when the judgment came to be delivered and affected with severe diabetes and fracture in the vertebra and she had sustained a fall at home due to onset of giddiness. The petitioner stated that he was completely engaged in providing care to his wife and was attending treatment and she was

S.M.SUBRAMANIAM, J.

mrm

subjected to following fracture of vertebra and also severe condition of the diabetes. On account of the said reasons, the petitioner was not in a position to file an appeal within the time limit.

3.Considering the reasons stated in the affidavit filed in support of the Miscellaneous Petition, this Court is inclined to condone the delay with costs. Accordingly, the delay stands condoned on condition to pay the cost amount of Rs.3,000/- to the High Court Legal Services Authority on or before 10.12.2019 failing which the petition stands dismissed automatically. With the above condition the Civil Miscellaneous Petition stands allowed and the Registry is directed to number the First Appeal, if it is otherwise in order.

04.12.2019

mrm

C.M.P.No.11643 of 2019

in

A.S.S.R.No.42540 of 2019

WEB COPY