

CMP.No.18320 of 2019
in
A.S.SR.No.22478 of 2019

S.M.SUBRAMANIAM, J.

This Civil Miscellaneous Petition is filed to condone the delay of 101 days in filing the Appeal Suit. The reasons stated for condoning the delay of 101 days is that the orders were passed on 29.06.2018, directing the petitioners to pay the deficit Court fee on or before 30.07.2018 failing which the petition to reject the plaint will be allowed. The petition to reject the plaint is allowed. The petitioners challenged the order by filing a regular appeal. When the petitioners met their counsel at Chennai, the counsel advised the petitioner to challenge the consequential order dated 31.07.2018. Thereafter, the petitioner rushed to Coonoor requesting the counsel to do the needful. On account of these processes, there was a delay of 101 days in filing the Appeal Suit.

2.The learned counsel appearing on behalf of the respondents disputed the delay by stating in paragraph 5 of the counter affidavit, that the averments made in paragraph 6 of the affidavit filed by the petitioners, even though the suit was dismissed on 29.06.2018 by rejecting the plaint by giving liberty to pay deficit Court fee on or before 30.07.2018, failing which the petition to reject the plaint will be allowed, without paying the deficit Court fee, they approached this Court by way of regular appeal and also challenged the Consequential Order. However, they have not filed Copy Application after a lapse of 7 months and filed this First Appeal to condone the delay of 101 days without explaining each day.

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3.This Court is of the opinion that the reasons stated in Paragraph 6 of the affidavit is sufficient to condone the delay of 101 days in filing the Appeal Suit. As far as the condonation of delay is concerned, Court must have liberal approach in normal circumstances. Short span of delay is to be condoned by way of liberal approach. Only in the event of an enormous delay, which is unexplained, the Courts shall reject the petition and not otherwise.

4.In the present case, the delay is 101 days and the reasons are also furnished in paragraph 6 of the affidavit. Thus, this Court is inclined to consider the petition and accordingly, the delay of 101 days in filing Appeal Suit is condoned and the Civil Miscellaneous Petition in C.M.P.No.18320 of 2019 stands allowed.

12.12.2019

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Note: Registry is directed to number the Appeal, if it is otherwise in order.

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