

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.M.P.No. 13709 of 2019
in
S.A.S.R.No. 48920 of 2019

The Executive Officer,
Selection Grade Panchayat,
Kodavasal,
Represented by its Executive Officer
Having office at Koradacheri Main Road,
Kodavasal Town,
Nannilam Munsif. ..Appellant/Defendant

Vs.

Ayysamy ..Respondent/Plaintiff

Prayer: Civil Miscellaneous Petition is filed praying to condone the delay of 1348 days filing second Appeal to set aside the Judgements and Decree passed in A.S.No. 12 of 2014 dated 26.03.2015 by the Subordinate Court, Thiruvarur. Confirming the Decree and Judgment passed by the District Munsif cum Judicial Magistrate Nannilam, dated 11/09/2012 made in O.S.No. 75/2011.

For Appellant : Mr.G.Muthurasu
For Respondent : D.Veerasekaran

J U D G M E N T

This application has been filed seeking to condone the delay of 1348 days in preferring the appeal against the Judgement and decree dated 26.03.2015, made in A.S.No. 12 of 2014 on the file of the Subordinate Court, Thiruvarur. The reasons given for the delay in the affidavit filed in support of this petition are as follows;

"The Appellant respectfully submits that the Hon'ble first Appellate Court passed the judgement and decree 26.03.2015 and, subsequently the Appellant approached the first Appellate Court government counsel several times for getting the copy of said judgement and decree. But the first Appellate Court government counsel did not give the said copy of said judgement and decree to Appellant. Finally, only on 19.09.2018 copy application made and obtained the copy of Judgement and decree on

24.04.2018. Due the administrative reasons the Appellate did not file this second Appeal within time. Hence, the Appellant filing this second Appeal is neither wilful nor wanton but for the bonafide reasons stated in the above. The Appellant therefore file this petition for condone delay before this Hon'ble Court."

2. The Judgement of the Lower Appellate Court was pronounced on 26.03.2015 and the copy application itself was made only on 19.09.2018, nearly after 3 years and 6 months. The delay is attributed to the counsel in applying for a copy after 3 years and 6 months.

3. The learned counsel appearing for the petitioner would rely upon Judgement of Hon'ble Supreme Court in the state of Manipur & Ors Vs Koting Lamkang in Civil Appeal No. 8298 of 2019, wherein the Hon'ble Supreme Court held that regard should be had, in similar circumstances, to the impersonal nature of the Government's functioning where individual officers may fail to act responsibly. In the case on hand, though the delay is unreasonably long, the affidavit is totally silent as to the action taken by the officers of the appellant to pursue the appeal. Even the copy application has been filed 3 ½ years after the disposal of the appeal. I am therefore unable to persuade myself to conclude that the appellant has made out sufficient cause for condonation of delay.

4. Hence, the Civil Miscellaneous Petition is dismissed. The S.A.SR will stand rejected.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

kmm

To:- 1.The Subordinate Judge, Thiruvarur.

2.The District Munsif cum
Judicial Magistrate,
Nannilam, Thiruvarur District.

+1cc to Mr.D.Veerasekaran, Advocate, S.R.No. 89824

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EV(CO)
GN(13/12/2019)