



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Monday, the Twenty Fourth day of June Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice S.S.SUNDAR

CMP(MD) No.1212 of 2019

IN

SA(MD) No.SR2230 of 2015

ANNAPACKIYAM

... PETITIONER/ PETITIONER

Vs

MANICKARAJ

... RESPONDENT/ RESPONDENT

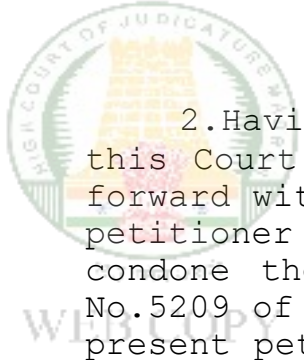
Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to condone the delay of 915 days for filing the restoration petition against the order dated 10.06.2016 in CMP.No.5209 of 2016 in SA.SR.No.2230 / 2015 on the file of this Honourable Court pending disposal of the above Appeal.

Prayer in SA(MD) No.SR2230 of 2015:

To prefer this Memorandum of Second Appeal against the Judgment and decree made in A.S.No.05 of 2014 dated 28.08.2014 on the file of the Subordinate Judge, Sankarankovil confirming the Judgment and Decree passed in O.S.No.256 of 2010 dated 07.11.2013 on the file of the Additional District Munsif Court, Sankarankovil.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.R.VENKATESAN, Advocate for the petitioner and of M/S.F.X.EUGENE, Advocate on behalf of the Respondent, the court made the following order:-

This petition is to condone the delay of 915 days in filing petition to restore the C.M.P.(MD).No.5209 of 2016 in S.A.(MD). No.SR2230 of 2015. It is not in dispute that the petitioner is the plaintiff in suit in O.S.No.256 of 2010, before the Additional District Munsif, Sankarankovil. The suit filed by the petitioner was dismissed by the trial Court and the same was confirmed by the Appellate Court. Though the second appeal was filed on 19.01.2015, the petition to condone the delay caused in deposit of deficit court fee was dismissed on 10.06.2016 for default due to the non appearance of the petitioner's counsel.



2. Having regard to the facts and circumstances of this case, this Court is *prima facie* of the view that the petitioner has come forward with the huge delay of 915 days without proper reasons. The petitioner filed the second appeal with a delay. The petition to condone the delay in deposit of deficit Court fee in C.M.P.(MD). No.5209 of 2016 was also dismissed for default on 10.06.2016. The present petition is filed to condone the delay caused in filing the petition to restore the above said petition. Hence, from the nature of case and the conduct of the petitioner, it reveals that the petitioner is guilty of adopting delaying tactics at every stage. Hence, the delay is condoned on condition to pay a sum of Rs.10,000/- to the respondent within a period of three weeks from the date of receipt of a copy of this order, failing which this petition stands dismissed automatically without any reference to this Court.

sd/-
24/06/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE SUBORDINATE JUDGE,
SANKARANKOVIL.

2 THE ADDITIONAL DISTRICT MUNSIF COURT,
SANKARANKOVIL.

+1. C.C. to M/S.R.VENKATESAN Advocate SR.No.70807
+1. C.C. to M/S.F.X.EUGENE, Advocate SR.No. 10353

ORDER
IN
CMP (MD) No.1212 of 2019
IN
SA (MD) No.SR2230 of 2015
Date :24/06/2019

JM/VR/SAR 2/01.07.2019/2P/5C