



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 11.06.2019

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.P. (MD) No.1791 of 2019

in

CMA(MD).No.SR5938 of 2019

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Kumbakonam

: Petitioner/Appellant

Vs.

1.Minor Hariharan

2.Minor Sophiya

3.Minor Thenmozhi

4.Mangayarkarasi

(1 to 3 Minor respondents are represented by their
mother/guardian - 4th respondent)

5.Giri

: Respondents/Respondents

PRAYER in C.M.P(MD).No.1791 of 2019: The Civil Miscellaneous Petition has been filed under Section 173(1) of Motor Vehicles Act 1911 to condone the delay of 2682 days in filing the above civil miscellaneous appeal against the judgment and decree dated 05.07.2011 in MCOP.No.11 of 2007 on the file of the Motor Accident Claims Tribunal/Additional District and Sessions Court and Special Court for EC Act Cases, Thanjavur.

PRAYER in C.M.A. (MD).SR.No.5938 of 2019: The Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 05.07.2011 passed in M.C.O.P.No.11 of 2007 on the file of the Motor Accident Claims Tribunal/Additional District and Sessions Court and Special Court for EC Act Cases, Thanjavur.

For Petitioner : Mr.M.Prakash

O R D E R

This petition has been filed by the Tamil Nadu State Transport Corporation seeking to condone the delay of 2682 days in filing the civil miscellaneous appeal.

2.It is seen from Paragraph No.3 of the affidavit that the petitioner has not given any acceptable reason to condone the delay and the same reads as follows:



"3.The Judgment and Decree pronounced on 05.07.2011. The copy application has been filed on 15.11.2011 with delay in lower Court counsel's office since bundle misplaced in his office and it has delivered to our panel advocate on 21.11.2011. After getting the certified copy of judgment and decree, same was sent to our panel advocate to get opinion and after that it has placed before the Committee. That Committee had scrutinize legal opinion and other aspects and decide to file appeal before this Hon'ble High Court against the order of Tribunal. Then after appeal papers sent to out High Court panel advocate on 20.01.2012 to file appeal. The Transport Corporation is a public sector company and it should follow some procedural formalities to either deposit or filing the appeal before this High Court. Therefore, 2682 days delay caused to filing the appeal before High Court".

3.The delay is not minimal and it is a very long delay. The reasons stated for the delay are not acceptable reasons.

4.In **State of Bihar vs. Deo Kumar Singh (SLP(Civil) No.13348/2019 dated 09.05.2019**, the appeal was filed with the delay of 728 days stating that the delay occurred in obtaining all the sanctions from the respective departments and also in receiving the affidavit and vakalathnama from the concerned department. The Hon'ble Supreme Court in the said case, has held that a clear signal has to sent to the Government Authorities that they cannot approach the Court as and when they please on account of gross incompetence of their officers and that too without taking any action against the concerned officers. Ultimately, in the said case, the Apex Court while declining to condone the delay of 728 days in filing the appeal, imposed the cost of Rs.20,000/- to be recovered from the officers responsible for that delay and be deposited to the Mediation Centre of the Supreme Court within four weeks.

5.By relying on the above Judgment, the reasons assigned by the petitioners are not satisfactory or sufficient reasons to condone the delay in filing the appeal. Therefore, this Court is not inclined to condone the delay of 2682 days in filing the Civil Miscellaneous Appeal.

6.Accordingly, this petition is dismissed. In view of the order passed in CMP(MD)No.1791 of 2019, the connected C.M.A.(MD)SR.No.5938 of 2019 is rejected at the SR stage itself. No costs.

Sd/-

Assistant Registrar

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To

1. The Motor Accident Claims Tribunal/Additional District and Sessions Court and Special Court for EC Act Cases, Thanjavur.

2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.M.PRAKASH, Advocate SR-67952.

C.M.P. (MD) No.1791 of 2019
in

CMA(MD) .No.SR5938 of 2019

11.06.2019

CS: (01/07/2019) 3P 5C