

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 02.07.2019

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU**C.R.P (MD) .No.1050 of 2019 (NPD)**

1.Ramuthai

2.Anjugam

3.Meenakshi

... Petitioners/
Petitioners/Appellants

Vs.

1.The Superintending Engineer (Planning),
Highways, Near Thamaraitthotti,
K.Pudur, Madurai - 7.

2.Karpagam

3.Kumaran

4.Kirutiga

5.Shenbagam

6.Sakthikumaran

7.The Tahsildar,
Madurai North Taluk,
District Collector Office,
Madurai.8.The District Collector,
Madurai North Taluk,
Collector Office,
Madurai District.... Respondents /
Respondents/Respondents

PRAYER:- Civil Revision Petition filed under Section 115 of the Civil Procedure Code, against the order, dated 04.02.2019, passed in I.A.No.105 of 2017 in A.S.No.Nil of 2017 by the Principal Subordinate Court, Dindigul.



For petitioner

: Mr.R.Thangapandian

ORDER

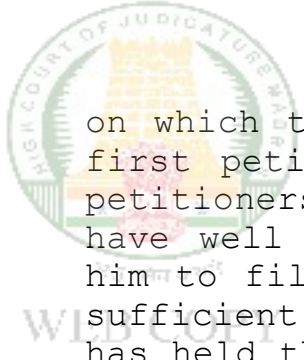
WEB COPY This petition has been filed by the petitioners / appellants challenging the order dated 04.02.2019, passed by the first appellate Court in I.A.No.105 of 2017 in A.S.No.nil of 2017, whereby and whereunder the Court below dismissed petition filed by the petitioners / appellants seeking condonation of delay of 840 days in filing the appeal suit.

2. It is seen that the petitioners herein as plaintiffs have filed a suit in O.S.No.142 of 2010 for declaration against the respondents herein. After trial, the trial Court dismissed the suit. Aggrieved by the same, the petitioners presented an appeal suit with the delay of 840 days. In order to condone the delay of 840 days, the petitioners have filed I.A.No.105 of 2017. The reasons stated by the petitioners for such enormous days of delay is that due to drought in their Pachamalaiyan Village, they went to Kerala for eking out their livelihood and the first petitioner fell ill and therefore, they could not contact their counsel and thus, the delay of 840 days had occurred in filing the appeal. The Court below dismissed the said petition holding that the petitioner has not assigned any valid reason for condoning the enormous days of delay and that even on merits there is no case in favour of the petitioners/plaintiffs. Aggrieved by the same, the petitioners filed this revision petition.

3. Heard the learned counsel for the petitioners and perused the records carefully.

4. It is a settled law that the condonation of delay is a matter of discretion of the Court. There should be a liberal, pragmatic, justice oriented, non-pedantic approach while dealing with an application for condonation of delay. The length of delay is not material and acceptability of explanation is important. Even the delay of long range can be condoned if the explanation is satisfactory.

5. Here, in this case, the reason stated by the petitioners for condoning the enormous days of delay is that due to drought in their Village, they went to Kerala for eking out their livelihood and the first petitioner fell ill and therefore, they could not contact their counsel and instruct to file the appeal. Admittedly, the petitioners have regularly appeared in the suit. But, when the matter posted for judgment, the petitioners did not appear before the Court below. The petitioners did not substantiate the reasons by producing any oral and documentary evidence. The petitioners did not even aver the date on which they went to Kerala, the date



on which the first petitioner fell ill and the date on which the first petitioner recovered from ill. The reasons stated by the petitioners are only old-fashioned reasons. The petitioners could have well contacted their counsel through telephone and instruct him to file appeal. The reasons stated by the petitioners is not sufficient to condone the enormous days of delay. The Court below has held that it is unbelievable to hear that the petitioners, who were interested in prosecuting the matter, did not even attempt to know the result of the suit. The Court below has held that even on merits, there is no case in favour of the petitioners/plaintiffs and in the event of allowing the petition, it will be only a futile exercise. This Court does not find any reason to interfere with the order passed by the Court below.

6. In view of the above, this Civil Revision Petition is dismissed at the stage of admission itself. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar (CS)

To

The Principal Subordinate Judge,
Dindigul.

+1 CC to M/s.R.THANGAPANDIAN, Advocate (SR-72797[F] dated 02/07/2019)

GCG

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