



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

Wednesday, the Twenty Sixth day of June Two Thousand Nineteen
PRESENT

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

WEB COPY

CMP(MD) No.4248 of 2018

IN

SA(MD) No.SR50819 of 2014

PON PURE CHEM (P) LTD.,
NO.77 PERAMPUR HIGH ROAD,
PERAMPUR CHENNAI-600 012
THRO. AUTHORIZED REPRESENTATIVE
JINO ANTONY,
MANAGER-LEGAL,
NOW 32 'H' BLOCK, 15TH MAIN ROAD,
ANNA NAGAR, CHENNAI- 600 040

... PETITIONER/APELLANT/
APELLANT/1ST DEFENDANT

Vs

1 E.SWAMINATHAN

... 1ST RESPONDENT/1ST RESPONDENT/
1ST RESPONDENT/PLAINTIFF

2 KUMAR @ SIVAKUMAR
BHAGAVATHIAMMAL (DIED)

3 KRISHNAVENI

4 REVATHI

5 MANIKANDAN

... RESPONDENTS 1 -5/RESPONDENTS 1-5/
RESPONDENTS 1 TO 5/DEFENDANTS 2,4,5 & 6

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 1133 days in representing SA(MD) SR.No.50819 of 2014 and pass such other orders and thus render justice.

PRAYER IN SA(MD) No.SR50819 of 2014:

To allow this appeal setting aside the judgment and decree passed by learned Sub Judge, Valliyoor in A.S.No.16 of 2013 dated 02.07.2014 confirming the decree and judgment of Additional District Munsif, Valliyoor in O.S.No.194 of 2007 and 08.03.2013.

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.A.THIRUMURTHY, Advocate for the petitioner and of MR.G.ARAVINTHAN, Advocate for R1 and the Respondents 2 to 5 not appeared either in person or by an advocate, the court made the following order:-



This petition is filed to condone the delay of 1133 days in representing the above Second Appeal papers.

2. It is stated that the second appeal was filed challenging the judgment and decree passed by the learned Sub Judge, Valliyoor in A.S.No.16 of 2013 dated 02.07.2015 confirming the judgment and decree passed by the learned Additional District Munsif, Valliyoor in O.S.No.194 of 2007 dated 09.03.2007.

3. Though the appeal was presented in time, it is stated that the delay in representation was occurred due to mixing of bundle in the office of the learned counsel appearing for the petitioner/appellant. It is seen that the suit is for partition. The first defendant/ petitioner/ appellant claimed to have purchased the property through power of attorney Agent. The suit property has been conveyed in favour of the first defendant.

4. The trial Court as well as the lower Appellate Court concurrently held that the plaintiff is entitled to 1/5th share in the suit property and that the plaintiff is entitled to separate possession of his 1/5th share in the schedule of property. The appellant is the first defendant, who has purchased the property from other defendants and stated to have purchased the share of the plaintiffs also, which according to the Courts below, is not binding on the plaintiff for valid reasons. The petitioner/appellant is a Company and stated that they have purchased the property for erecting a Wind Mill.

5. Considering the fact that the delay has caused serious prejudice and inconvenience caused to the respondents and the fact that the appellant/first defendant is a wealthy company, who proposed to erect a wind mill in the suit by spending huge amount, this Court is inclined to allow this petition, however, on terms. Accordingly, this petition is allowed and the delay is condoned on condition that the appellant/petitioner pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the respondent Counsel within a period of two weeks from the date of receipt of a copy of this order.

6. The Registry is directed to number the appeal, if the papers are otherwise in order and upon the petitioner reporting compliance by filing proof of paying cost to the respondent counsel. Post the appeal "for admission" in due course.

sd/-
26/06/2019

/ TRUE COPY /



TO

1. THE SUBORDINATE JUDGE,
VALLIYOOR

2. THE ADDITIONAL DISTRICT MUNSIF
VALLIYOOR.

COPY TO:

THE SUB ASSISTANT REGISTRAR,
AE SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to M/S. VICTORY ASSOCIATES Advocate SR.No.10537

ORDER
IN
CMP (MD) No.4248 of 2018
IN
SA (MD) No.SR50819 of 2014
Date :26/06/2019

AE/JC/SAR-II (08.07.2019) 3P 5C