



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

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Tuesday, the Twenty Second day of October Two Thousand and Nineteen

PRESENT

The Hon`ble Mrs.Justice J.NISHA BANU

CMP(MD) . No.5103 of 2019

and

CMP(MD)No.3437 of 2016

in

SA(MD)No.1099 of 2009

N.L.Venkatachalam,
S/o.Lakshmanan Ambalakkarakar, Ganesapuram,
Poosampatti Village, Inam Puliyur Post,
Srirangam Taluk, Trichy District.

... Petitioner/Appellant
(in both CMPs)

Vs

1 M.Chinnathambi,
S/o.Manian Ambalakkarakar Ganesapuram
Poosampatti Village Inam Puliyur Post,
Srirangam Taluk, Trichy District.

2 A.Rengasamy,
S/o.Adaikkan Ambalakkarakar, Ganesapuram
Poosampatti Village , Inam Puliyur Post,
Srirangam Taluk, Trichy District.

3 A.L.Rengasamy,
S/o.A.Lakshmanan Ambalakkarakar, Ganesapuram,
Poosampatti Village, Inam Puliyur Post,
Srirangam Taluk, Trichy District.

... Respondents/Respondents
(in both CMPS)

Prayer in CMP(MD)5103/2016 in SA(MD)NO.1099/2009

This Petitions filed under Section 5 of Limitation Act to condone the delay of 110 days in filing petition to restore the main Second Appeal in SA.No.1099 of 2009 which is dismissed for default by order dated 10.02.2010.



Prayer in CMP(MD). 3437/ 2016 in SA(MD)No.1099 of 2009:

This Petitions filed under Section 5 of Limitation Act to set aside the order dated 10.02.2010 and restore the S.A.No.1099 of 2009 earlier dismissed on 10.02.2010 and take the appeal on file and thus render justice.

Prayer in SA(MD). 1099/ 2009 :

This Memorandum Of Second Appeal Petition filed Under Section 100 Civil Procedure Code to set aside the Judgment and Decree passed by the Learned II Additional Sub Judge, Trichy in AS.311 of 2007 dated 28.11.2008, reversing the Judgment and Decree passed by the Learned I Additional District Munsif, Trichy, in OS.610 of 2001 dated 06.06.2007 and allow the SA and thus render justice.

ORDER:- This Petitions coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr. D.Kanagasabai, Advocate for the Petitioner and of Mr.S.M.S. Johny Basha, Advocate for the respondents, this Court made the following order:

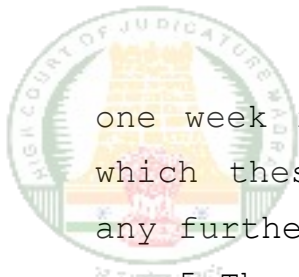
C.M.P(MD)No.5103 of 2019 has been filed by the petitioner seeking to condone the delay of 110 days in filing a petition to restore S.A(MD)No.1099 of 2009, which was dismissed for default on 10.02.2010.

2.C.M.P(MD)No.3437 of 2016 has been filed by the petitioner seeking to set aside the dismissal order dated 10.02.2010 and restore S.A(MD)No.1099 of 2009 to file.

3.Heard the learned counsel for both sides.

4.Considering the reasons stated in the affidavits filed in support of the petitions and also considering the length of delay, this Court is inclined to allow these petitions subject to the payment of cost of Rs.2,000/- (Rupees two thousand only) to the

Legal Services Committee, attached to this Bench within a period of
<https://hcservices.ecourts.gov.in/hcservices/>



one week from the date of receipt of copy of this order, failing which these petitions shall stand dismissed automatically without any further reference to this Court.

5. These petitions are accordingly ordered.

6. In the event of payment of cost, Registry is directed to restore S.A(MD)No.1099 of 2009 to file and post the same for final disposal on 18.11.2019.

Sd/-

Assistant Registrar (w)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The II Additional Sub Judge,
Trichirappalli.
2. The I Additional District Munsif,
Trichirappalli.
3. The officer In-Charge,
Legal Aid Services Committee,
Madurai Bench of Madras High Court, Madurai.

Copy to:

The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court, Madurai

ORDER DATED : 22/10/2019
HEARING DATED: 18/11/2019

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ORDER

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CMP(MD) . NO.5103 OF 2019

AND

CMP(MD) . NO3437 OF 2016

IN

SA(MD) 1099 OF 2009

Giving direction and etc.
as stated within.

KK/SAR/24.10.2019/3P-5C/