

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

Thursday, the Eighteenth day of July Two Thousand Nineteen

PRESENT

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

CMP(MD) No.5207 of 2019
IN
SA(MD) No.SR22139 of 2019

1 R.PAPPATHI
2 S.BALAMURUGAN
3 S.BALASUBRAMANIAN
4 S.BALAKUMAR ... PETITIONERS/ APPELLANTS

Vs

K.SUBRAMANI ... 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 218 days in filing the Second Appeal against the Judgment and Decree dated 09.08.2018 made in A.S.No.09 of 2016 on the file of the Principal Subordinate Judge, Madurai confirming the Judgment and Decree dated 26.08.2014 made in O.S.No.150 of 2014 on the file of District Munsif, Madurai Taluk and thus render justice.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.R.SURIYANARAYANAN, Advocate for the petitioners and of Mr.V.OM.PRAKASH, Advocate on behalf of the Respondent, the court made the following order:-

This petition is filed to condone the delay of 218 days in filing the second appeal.

2.The reason stated in the affidavit is that the petitioners were not aware of the judgment delivered by the Lower Appellate Court as it was not informed to them. It is further stated that when the respondents threatened to remove the encroachment in the suit pathway, the appellant approached their counsel and knew that the lower Appellate Court has rendered judgment against them. The petitioners have not given the particulars and the dates with accuracy. Now-a-days the trend of Advocates to blame the lower Court counsels has become a common phenomenon. This Court find that in most of the cases, the petitioners do not come with clean hands nor state the reasons for the delay with accuracy as it is expected.

Casual explanations are given without even ascertaining or getting instructions from the parties.

3.Learned counsel appearing for the respondent filed a counter denying the averments, pointing out several inconsistencies. They have further pointed out that the petitioners are always showing a lethargic attitude even when the matter was pending before the Courts below. It is also pointed out by the learned counsel appearing for the respondent that the respondent have filed caveat and the notice in caveat was also served on the appellant long back. The respondent is a 73 years old man and hence the delay has caused much hardship to him. In the said circumstances, this Court though showing some leniency, wants to condone the delay intends to compensate the respondent by way of cost.

4.As a result, this petition is ordered and the delay of 218 days is condoned on condition that the petitioner pay a sum of Rs.5,000/- to the respondent within a period of two weeks from the date of receipt of a copy of this order, failing which this petition shall stand dismissed automatically without any reference to this Court.

sd/-

18/07/2019

/ TRUE COPY /

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

TO

1 THE PRINCIPAL SUBORDINATE JUDGE,
MADURAI.

2 THE DISTRICT MUNSIF,
MADURAI TALUK.

+1. C.C. to M/S.R.SURIYANARAYANAN Advocate SR.No.11905

ORDER
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IN

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Date :18/07/2019

MS/PN/SAR-3/23.07.2019/2P.4C