



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

Monday, the Twenty Eighth day of January Two Thousand Nineteen
PRESENT

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

The Hon`ble Mr.Justice C.SARAVANAN

CMP (MD) No.7721 of 2018

IN

AS (MD) No.SR27654 of 2018

V.SOMASUNDARAM

... PETITIONER/ACCUSED

Vs

1.MINOR.S.SHIVANI SRI
D/O.V.SOMASUNDARAM

2 MINOR.S.SHREENITHI
D/O.V.SOMASUNDARAM

... RESPONDENTS/RESPONDENTS

(Minor 1 and 2 plaintiffs represented by
and through their mother and next friend
Mrs.Saravana Sabari Ramkumari)

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 672 days in filing the above First Appeal
and thus render justice.

PRAYER IN AS (MD) No.SR27654 of 2018:-

To allow this appeal by setting aside the judgment and Decree
on the file of Principal District Judge, Tirunelveli in O.S.No.88 of
2013 dated 09.06.2016 and to dismiss the suit.

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.J.ASHOK, Advocate for the petitioner and of
MR.R.SANTHOSH KUMAR, Advocate on behalf of the Respondents the court
made the following order:-

[Order of the Court was made by **S.S.SUNDAR, J.**]

This Civil Miscellaneous Petition is filed to condone the delay
of 672 days in filing the appeal.

2. In the affidavit filed in support of the petition, the
petitioner has stated that because of the financial constraints of
the petitioner, he could not mobilise funds for paying the Court fee

of Rs.3 lakhs and odd and that therefore, the delay has occurred.

3.The counter affidavit has been filed denying the averments made in the affidavit. It is further stated that during the pendency of the proceedings, the petitioner has sold the first item of suit schedule property for a total consideration of Rs.18 Crores. It is further stated that the second item of the suit schedule property is an arcade and that the petitioner is collecting lakhs of rupees as rent. It is in these circumstances, this Court though find that there are reasons for condoning the delay, the delay could have been avoided. Hence, this Court is inclined to allow this Civil Miscellaneous Petition. Having regard to the facts that the delay is 672 days and the petitioner is a man of means, the delay is condoned on condition that the petitioner pays directly a sum of Rs.25,000/- (Rupees Twenty Five thousand only) to the petitioner's minor daughter represented by her mother guardian within a period of two weeks from the date of receipt of a copy of this order. The amount shall be paid by way of Demand Draft drawn in favour of the mother who shall take the money on behalf of the minor and shall keep an account.

4.The Registry is directed to number the appeal, if the papers are otherwise in order.

sd/-
28/01/2019

/ TRUE COPY /

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

TO

THE PRINCIPAL DISTRICT JUDGE, TIRUNELVELI.

COPY TO:- THE SUB ASSISTANT REGISTRAR,
AE SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to MR.S.SAJI BINO, Advocate SR.No.1650

ORDER IN
CMP(MD) No.7721 of 2018
IN
AS(MD) No.SR27654 of 2018
Date :28/01/2019