



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**

CMP(MD) No.8242 of 2018  
IN  
SA(MD) No.SR35621 of 2018

SELVI

... PETITIONER/APPELLANT

Vs

1 MUTHUKALAI  
2 PONNUCHAMY  
3 CHELLAMUTHU

... RESPONDENTS/ RESPONDENTS

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 1648 days in filing the above second appeal as against the judgment and decree dated 10.10.2013 passed in A.S.No.6 of 2012 on the file of the Learned Additional Sub Court, Dindigul confirming the Judgment and Decree dated 22.11.2011 passed in O.S.No.17/2009 on the file of the Learned District Munsif cum Judicial Magistrate Court, Natham, Dindigul District and thus render justice.

(\*)PRAYER AMENDED AS PER ORDER DATED 07.03.2019 IN CMP(MD) No.2362/2019 IN SA(MD)SR35624/2018 BY JNBJ

**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.B.JAMEEL ARASU, Advocate for the petitioner and of Mr.M.KANNAN, Advocate on behalf of the Respondents, the court made the following order:-

This petition is filed to condone the delay of 1648 days in filing the above Second Appeal.

2.Originally, the petitioner has filed a petition to condone the delay of 228 days in filing the above second appeal. However, it is found that the delay is 1648 days based on the calculation and therefore, proper amendment petition has been filed to amend the prayer, to condone the delay of 1648 days. The reasons stated for the delay is that there was delay in getting the certified copy of the judgment and decree of the Courts below.



3.It is seen that the petitioner has not given proper explanation for the delay and it is found that the delay is more than 1648 days. The petitioner has not chosen to file a better affidavit to explain the delay.

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4.Despite the fact that the delay is inordinate and there is no proper explanation from the petitioner for filing a better affidavit, this Court is of the view some lenience may be shown, as it is the mistake of counsel in calculating the delay. Hence, this Court is inclined to allow the petition on terms.

5.In the result, this Petition is allowed on condition that the petitioner pay a sum of Rs.12,000/- as costs to the respondent counsel within a period of four weeks from the date of receipt of a copy of this order. In case the petitioner fails to pay the cost amount within time stipulated by this Court, this petition shall stand dismissed without further reference to this Court.

6.Registry is directed to number the appeal, if the papers are otherwise in order and after showing the proof for payment.

sd/-  
26/06/2019

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

TO

1.THE ADDITIONAL SUBORDINATE JUDGE,  
DINDIGUL.

2.THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,  
NATHAM, DINDIGUL DISTRICT.

**COPY TO:**

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

ORDER  
IN  
CMP (MD) No.8242 of 2018  
IN  
SA (MD) No.SR35621 of 2018  
Date :26/06/2019

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TK/PN/SAR.1/25.07.2019/2P/4C