



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.10.2019

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.M.P (MD) No.992 of 2018

in

S.A (MD) No.SR21663 of 2009

M/s.New India Assurance Co.,Ltd.,
Erode through its Divisional Manager
Sivakasi. ... Petitioner/Appellant

Vs.

1.M.Athimoolam
2.The Lakshmi Mills Company Ltd.,
Coimbatore
3.Tiruppathi Raja
4.M/s.Erode Perundurai Transports
Coimbatore 641 001
5.Mahalakshmi
6.Venkatachalam ...Respondents/Respondents

(No relief against the respondents 2 to 6
is prayed. Hence, no notice to respondents 2 to 6
is necessary in this petition)

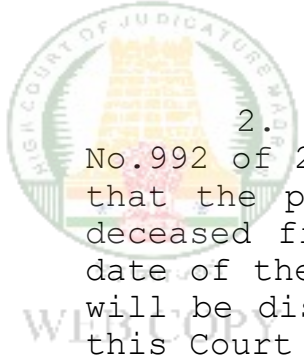
PRAYER (C.M.P. (MD)No.992 of 2018): Civil Miscellaneous petition filed under Section 5 of Limitation Act, to condone the delay of 119 days filing the above restoration petition against the first respondent in M.P.No.1 of 2013 in SA.SR.No.21663 of 2009.

PRAYER (S.A (MD)No.SR21663 of 2009): This Second Appeal filed under Section 100 of the Code of Civil Procedure, against the judgement and decree, dated 29.12.2008 made in A.S.No. 108 of 1997 on the file of the Principal District Court at Srivilliputhur , confirming the judgment and decree of the learned Subordinate Court, Srivilliputhur, dated 28.02.1995 made in O.S.No.94 of 1986.

For Petitioner : Mr.G.Prabhu Rajadurai

ORDER

The petition in question is to condone the delay of 119 days in filing the petition to restore M.P(MD) No.1 of 2013 in S.A(MD) No.SR21663 of 2009 which was dismissed for default, on 15.09.2017.



2. This Court by an order dated 26.06.2019 in C.M.P(MD). No.992 of 2018, had allowed the application subject to the condition that the petitioner should bring on record the legal heirs of the deceased first respondent, within a period of three weeks from the date of the order (ie. upto 17.07.2019), failing which, the petition will be dismissed for non prosecution, without further reference to this Court or notice to the petitioner concerned.

3.Today, when the matter is taken up for hearing, it is seen that the petitioner has not taken any steps to comply with the order passed by this Court, dated 26.06.2019. Hence, the order of dismissal comes into effect.

4.Accordingly, this Civil Miscellaneous Petition stands dismissed and consequently, the second appeal, which is in SR stage, is rejected.

Sd/-

Assistant Registrar (Cs-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Principal District Judge, Srivilliputhur

2.The Subordinate Judge, Srivilliputhur

C.M.P (MD) No.992 of 2018
in

S.A (MD) No.SR21663 of 2009
01.10.2019

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