



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.09.2019
CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.M.P (MD) No.3184 of 2016

in

S.A (MD) No.SR18973 of 2008

Susai Arul

... Petitioner/Appellant

Vs.

1.Thanislas

2.Arockiaraj

3.Arockiasamy

... Respondents/Respondents

PRAYER (C.M.P. (MD) No.3184 of 2016): Civil Miscellaneous petition filed under Section 5 of the Limitation Act, to condone the delay of 109 in filing restoration petition to restore M.P.No.1 of 2009 in S.A (MD) No.SR18973 of 2008 dismissed on 05.03.2009.

PRAYER (S.A (MD) No.SR18973 of 2008): This Second Appeal filed under Section 100 of the Code of Civil Procedure, against the decree and judgment of the learned District Judge, Sivagangai made in A.S.No.18 of 2007 confirming the judgment and decree of the learned Principal District Munsif, Sivagangai dated 22.09.2005 made in O.S.No.154 of 2004.

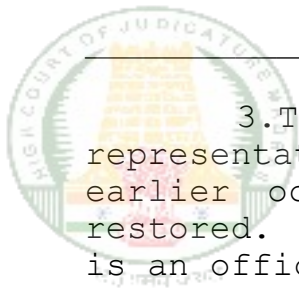
For Petitioner : No appearance

For Respondents : No appearance

ORDER

The petition in question is to condone the delay of 109 days in filing the restoration petition to restore M.P(MD) No.1 of 2009 in S.A(MD) No.SR18973 of 2008 which was dismissed for default, on 05.03.2009.

2.M.P(MD) No.1 of 2009 was filed for condoning the delay of 223 days in filing the second appeal. This Court by an order dated 05.03.2009 had allowed the application subject to the condition that the petitioner should pay a sum of Rs.225/- to the Tamil Nadu Legal Services committee, Madurai Bench, within a period of two weeks from the date of receipt of a copy of the order. The conditional order was not complied with and therefore, M.P(MD) No.1 of 2009 was dismissed for default. Hence, the petitioner has moved the present application on 07.09.2009 with the delay of 109 days.



3.Today, when the matter is called, there is no representation on the side of the petitioner. It is seen that on earlier occasion, this petition was dismissed and subsequently, restored. The conduct of the learned counsel for the petitioner who is an officer of Court also requires to be deprecated.

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4.Considering the fact that the earlier order dated 05.03.2009 has not been complied with and there is no representation on the side of the petitioner, 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 District Judge, Sivagangai.
2. The Principal District Munsif, Sivagangai

C.M.P (MD) No.3184 of 2016

in

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