



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Thursday, the Twelfth day of September,
Two Thousand and Nineteen

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PRESENT

The Hon`ble Mr Justice S.VAIDYANATHAN

CMP(MD) . No.9495 of 2018
in
CRP(MD) No.874 of 2008

1. R.Padmavathi
2. R.Subha ... Petitioners/Petitioners

Vs

P.Sahadevan ... Respondent/Respondent

Prayer :-

This Civil Miscellaneous Petition is filed under Section 5 of Limitation Act, praying that this Hon'ble Court may be pleased to condone the delay of 1304 days in filing the restoration petition in CRP(MD)No.874 of 2008.

ORDER:- This Civil Miscellaneous Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.B.Jeyakumar, Advocate for the Petitioner, and the Respondent not appearing either in person or through Advocate, this Court made the following order:

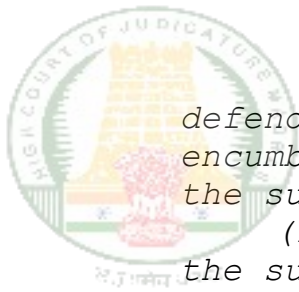
Heard the learned Counsel for the petitioners and there is no representation on behalf of the respondent.

2. The respondent is the plaintiff and the petitioners are the defendants.

3. The respondent filed a suit in O.S.No.1051 of 2000 seeking the following reliefs:

(i) To grant a decree for specific performance of the registered agreement of sale dated 07.08.1997 directing the defendants to execute a registered sale deed within the time to be fixed by the trial Court after receiving the balance sale consideration from the plaintiff failing which the sale deed may be executed through process of Court at the expenses of the defendants and to hand over the possession of the suit property to the plaintiff;

(ii) To grant permanent injunction restraining the



defendants from alienating or in any way making any encumbrance over the suit property till the disposal of the suit; and

(ii) To direct the defendants to pay the costs of the suit."

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4. Pending the suit, the petitioners/defendnats filed I.A.No.101 of 2004 to condone the delay of 100 days in filing the petition to set aside the exparte decree, however, the trial Court, dismissed the said application, vide order dated 05.02.2008. Challenging the same, the present Civil Revision Petition has been filed.

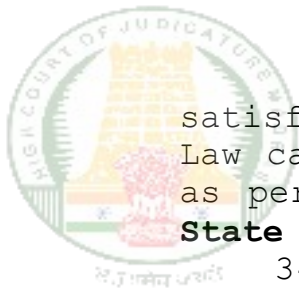
5. This Court, vide order dated 19.12.2014, directed the petitioners to comply with the defects pointed out by the Registry on or before 19.01.2015 with a default clause. However, the petitioners failed to comply with the defects as pointed out by the Registry and hence, the Civil Revision Petition came to be dismissed for default on 19.12.2014.

6. The present Civil Miscellaneous Petition has been filed seeking to condone the delay of 1304 days in filing the petition to restore C.R.P(MD)No.874 of 2008 which was dismissed for default, vide order of this Court dated 19.12.2014.

7. In M/s.Ruskim Sea Foods Limited v. M/s.Evergreen Sea Foods Pvt., Ltd., represented by its Managing Director **[C.M.P.Nos.21784 and 21785 of 2017 in O.S.A.SR.No.79476 of 2017, decided on 15.02.2018]**, the Division Bench of this Court, in paragraphs 32 to 34 held as follows:

"32. Ordinarily, the 'Condonation of Delay' is a matter of discretion to be exercised by the Concerned Court. Also, it is true that the length and breadth of delay is not relevant, but the acceptance of explanation can only be a relevant criterion for the concerned Court to deal with / condone the aspect of 'Condonation of Delay'. However, in this regard, the Petitioner / concerned litigant is to offer / ascribe sufficient reasons or project sufficient cause or good cause to condone the delay with a view to enable the Concerned Court to take a liberal view with a view to secure the ends of justice.

33. It is to be borne in mind that the term 'Sufficient Cause' under Section 5 of the Limitation Act, 1963 is an elastic one to enable the Court to apply the Law in a meaningful fashion, with a view to secure the ends of justice. However, 'Sufficient Cause' / 'Good Cause' is a condition precedent for exercise of discretion by the Concerned Court in regard to the 'Condonation of Delay'. If the delay in question is not either properly or



satisfactorily and convincingly explained, the Court of Law cannot condone the delay on sympathetic ground alone, as per decision of **Hon'ble supreme Court BrijeshKumar V. State of Haryana** reported in **AIR 2014 SCC at Page 1612.**

34. In considering a Petition for 'Condonation of Delay', no straight jacket cast iron formula is enunciated to arrive at a conclusion if sufficient / good grounds are made out or not. In short, each case is to be looked into based on the facts and circumstances, in which a litigant acts / conduct himself, in the considered opinion of this Court. 'Where a sufficient cause' or 'good cause' is not shown, then, no question of 'Condonation of Delay' arises, as opined by this Court."

8. Keeping in mind the above decision of the Division Bench of this Court and on perusal of the accompanying affidavit, this Court finds that no reason much less a sufficient or plausible reason has been assigned by the petitioners for condonation of delay of 1304 days in filing the petition to restore the Civil Revision Petition.

9. Hence, I find no merit in this petition and accordingly, this Civil Miscellaneous Petition stands dismissed.

Sd/-

Assistant Registrar (C.O)

// True Copy //

Sub Assistant Registrar(CS)

To

The Principal District Judge, Madurai.

ORDER DATED : 12/09/2019

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ORDER
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in
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CS(01.10.2019) 3P 2C