



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

Wednesday, the Eleventh day of March Two Thousand Twenty

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CMP(MD) No.2490 of 2020

in

SA(MD) SR.No.21853 of 2010

1 SATACHARAM
2 LAKSHMANAN PILLAI (DIED)
3 MOHAN (DIED)

... PETITIONERS/ PETITIONERS/
PETITIONERS/ APPELLANTS

Vs

1 MUNIYASAMY
2 AMUTHA (DIED)
3 MARIAMMAL (DIED)
4 SARATHA
5 NAGARAJAN
6 SANTHA
7 MALA

... RESPONDENTS/ RESPONDENTS/
RESPONDENTS/ RESPONDENTS

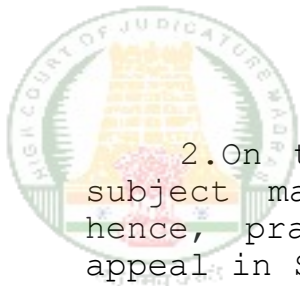
Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Condone the delay of 1679 days in filing the set aside application to set aside the dismissal order dated 29.06.2015 passed in M.P.(MD)No.2 of 2015 in SA(MD)SR.No.21853 of 2010 on the file of this Honourable Court and thus render justice.

PRAYER IN SA(MD) SR.No.21853 of 2010:

To call for the records relating to the judgment and decree dated 19.12.2006 made in A.S.NO.83 of 2004 on the file of the Sub Judge, Paramakudi conforming the Judgment and Decree dated 29.01.2004 made in O.S.No.195 of 2002 on the file of the District Munsif Court, Paramakudi.

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.PRAHALAD RAVI, Advocate for the petitioner and of MR.S.RAMAKRISHNAN, Advocate on behalf of the Respondents, the court made the following order:-

This petition has been filed to condone the delay of 1679 days in filing the set aside application to set aside the dismissal order dated 29.06.2015 passed in M.P.(MD)No.2 of 2015 in S.A.(MD)SR



2. On the side of the petitioner, it is stated that the main subject matter was already compromised between the parties and hence, prayed for setting aside the order in unnumbered second appeal in S.A(MD)SR No.21853 of 2010 dated 29.06.2015.

3. A perusal of the records shows that the order dated 29.06.2015 was passed on merits and not an *ex-parte* order and as such it cannot be set aside. The petition filed by the petitioner is to condone the delay in filing a set aside petition to set aside the dismissal order dated 29.06.2015. When the order could not be set aside, there is no question of filing a petition to set aside the order dated 29.06.2020 and therefore, the condone delay petition also could not be entertained.

4. Therefore, liberty is given to the petitioner to file a petition to review the order dated 29.06.2015 and to file a fresh petition for condone the delay in filing such petition.

5. With the above observation, this Civil Miscellaneous Petition is dismissed.

sd/-
11/03/2020

/ TRUE COPY /

/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE SUB JUDGE,
PARAMAKUDI

2 THE DISTRICT MUNSIF,
PARAMAKUDI.

+1. C.C. to M/S.B.PRAHALAD RAVI, Advocate SR.No. 11403

ORDER
IN
CMP (MD) No.2490 of 2020
in
SA(MD) SR.No.21853 of 2010
Date :11/03/2020

DSS
JM/VR/SAR 3/19.03.2020/2P/4C