



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

Thursday, the Fifteenth day of October Two Thousand Twenty

PRESENT

The Hon`ble Mr.Justice N.SESHASAYEE

CMP(MD) No.3521 of 2019
IN
CMA(MD) No.741 of 2017

A.PARAMASIVAN

... PETITIONER/PETITIONER

Vs

1.SPIC ELECTRIC POWER CORPORATION,
PRIVATE LIMITED COMPANY,
REP BY ITS SECRETARY,
HAVING OFFICE AT 16B, 16C,
WHITES ROAD, CHENNAI.

2 M.RAVINDRANATHAN (DIED)

3 R.JAWAHAR

... RESPONDENTS/RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to condone the delay of 528 days in filing the petition to restore the above CMA(MD) No.741 of 2017 and thus render justice.

PRAYER IN CMA(MD)No.741 of 2017 :

Pleased to call for the records connected to the order dated 12/06/2017 in I.A.No.927 of 2016 in O.S.No.261 of 2008 on the file of the Honourable District Munsif Court, Srivaigundam and set aside the same as illegal.

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.I.PINAYGASH, Advocate for the petitioner and of Mr.MOHAMED HANEEF, Advocate for Mr.M.P.SENTHIL, Advocate for R1, the court made the following order:-

The plaintiff has laid a suit for declaration which came to be dismissed for default. Without any loss of time, the plaintiff has filed I.A.No.927 of 2016 for restoration of the suit, that came to be dismissed for want of adequate reasons. Challenging the same, the present Civil Miscellaneous Petition is filed. The present Civil Miscellaneous Appeal also came to be dismissed for default on 11.10.2017. For restoring the Civil Miscellaneous Appeal, even here,



the plaintiff has not displayed adequate alacrity in filing necessary application within the time limit, which led to 528 days delay to intervene.

2.Mr.I.Pinaygash, learned counsel for the petitioner/plaintiff before the trial Court submitted that petitioner is a poor coolie and that he frequently goes out for employment and hence, he could not instruct the counsel which led to the dismissal of the Civil Miscellaneous Appeal.

3.Opposing the same, Mr.Mohamed Haneef for Mr.M.P.Senthil, learned counsel for the first respondent submitted that the plaintiff has sold the property long back and came up with a suit for declaration some 11 years thereafter. The intention of the plaintiff is only to delay the trial of the suit and defeat the right of the first respondent before the trial Court.

4.Heard the submissions of both sides and also perused the reasons stated in the affidavit filed in support of the petition.

5.This Court is satisfied with the reasons stated and inasmuch as the delay has caused inconvenience to the respondents, the petition is allowed on the petitioner paying a cost of Rs.5,000/- (Rupees Five Thousand only) to the learned counsel for the first respondent payable on or before 29.10.2020. Subject to payment of cost, the other Civil Miscellaneous Petition for restoration of appeal may be listed.

6.Post the matter on 02.11.2020.

sd/-
15/10/2020

/ TRUE COPY /

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

TO

THE DISTRICT MUNSIF, SRIVAIGUNDAM.

ORDER
IN
CMP(MD) No.3521 of 2019
IN
CMA(MD) No.741 of 2017
Date :15/10/2020

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TK/VR/SAR.3/20.10.2020/2P/2C