



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Civil Appellate Jurisdiction)

Tuesday, the Eighteenth day of August Two Thousand and Twenty

WEB COPY

PRESENT

The Hon'ble Mr. Justice N.SESHASAYEE

CMP(MD) No.5778 of 2019

IN

SA(MD) No.SR24550 of 2019

V.S.JEEVARATHINAM @ RATHINAM

... PETITIONER/APPELLANT

Vs

L.THIRUMALAI NAMBI

... RESPONDENT/RESPONDENT

Prayer in CMP(MD) No.5778 of 2019:

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 584 days in filing Second Appeal preferred against the Judgement and Decree dated 20.07.2016 made in A.S.No.75 of 2015 on the file of the Principal District Judge, Tirunelveli reversing the Judgement and Decree dated 13.07.2015 made in O.S.No.19 of 2013 on the file of the Sub Court, Valliyoor.

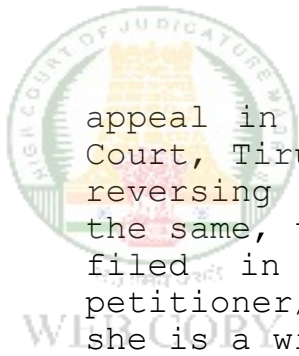
Prayer in SA(MD) No.SR24550 of 2019:

To set aside the Judgment and Decree of the Lower Appellate Court dated 20.07.2016 made on A.S.No.75 of 2015 on the file of the Principal District Court, Tirunelveli, reversing the Judgment and Decree of the Trial Court dated 13.07.2015 made in O.S.No.19 of 2013 on the file of the Sub Court, Valliyoor and to allow the Second Appeal and thus render justice.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.S.P.MAHARAJAN, Advocate for the petitioner and of MR.M.SARAVANAN, Advocate on behalf of the Respondent, the court made the following order:-

This petition is filed to condone the delay of 584 days in filing the Second Appeal.

2. The suit is filed for specific performance of contract of sale to execute sale deed in favour of the plaintiff as agreed in the sale agreement dated 29.11.2019. The suit was decreed by the trial court, challenging which, the defendant has filed the first



appeal in A.S.No.75 of 2015 on the file of the Principal District Court, Tirunelveli. The First Appellate Court has allowed the appeal reversing the judgment and decree of the trial court. Aggrieved by the same, the plaintiff has come before this Court. In the affidavit filed in support of the petition it is stated that the petitioner/plaintiff is a old lady and she had no one to support and she is a widow and does not know nuances in the law.

3.The learned counsel for the petitioner made his submission in tune with his statement in the affidavit.

4.Heard the learned counsel for the respondent.

5. In civil law, there is no presumption that everybody knows law, some may be illiterate, and ignorant about legal consequences. Hence, a degree of flexibility needs to be shown to them.

6. This Court finds reasons enough to condone the delay, but on cost of Rs.2000/-, since there would be considerable inconvenience to the respondent.

7. The learned counsel for the respondent now would submit that out of the cost awarded by this Court, Rs.1000/- may be paid to the credit of the District Court Advocate Clerks Association and Rs.1000/- may be paid to the credit of the High Court Advocate Clerks Association attached to Madurai Bench of Madras High Court

8.Accordingly, the delay of 584 days in filing the above Second Appeal is condoned subject to payment of Rs.2,000/- (Rupees Two Thousand only) within a period of 15 days from the date of receipt of the Order copy, out of which Rs.1000/- is directed to be paid to the District Court Advocate Clerks Association and Rs.1000/- is directed to be paid to the High Court Advocate Clerks Association attached to Madurai Bench of Madras High Court.

9.After ascertaining such payment, the Registry is directed to number the appeal, if the papers are otherwise in order.

10.As and when the appeal is numbered and listed for admission, the Registry is directed to print the name of Mr.M.Saravanan, learned counsel for the respondent.

sd/-
18/08/2020

/ TRUE COPY /

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



TO

1. THE PRINCIPAL DISTRICT JUDGE,
TIRUNELVELI.

2. THE SUBORDINATE JUDGE,
VALLIYOOR.

COPY TO:

1. THE OFFICER INCHARGE,
HIGH COURT ADVOCATE CLERKS ASSOCIATION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

2. THE OFFICER INCHARGE,
DISTRICT COURT ADVOCATE CLERKS ASSOCIATION,
TIRUNELVELI DISTRICT.

ORDER

IN

CMP (MD) No.5778 of 2019 IN

SA (MD) No.SR24550 of 2019

Date :18/08/2020

CM

SRS/ VR/ SAR-III/ 24.08.2020/ 3P/5C