



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Thursday, the Thirtieth day of September Two Thousand Twenty One

PRESENT

THE HON`BLE MS.JUSTICE P.T.ASHA

CMP.No.2520 of 2021

in AS.SR.No.14487 of 2021

SAROJA

[PETITIONER]

Vs

1 RAMASAMY

[RESPONDENTS]

2 RAJALAKSHMI

3 CHANDIRAMANI

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to condone the delay in filing the 1014 days in first appeal in AS.SR.No.14487/2021 on the file of this Honble court (in CMP.No.2520 of 2021).

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.C.B.MURALIKRISHNAN, Advocate for the petitioner and of MR.P.ASAI THAMBI, Advocate for M/S.P.IYAPPAN, Advocate for the 1st Respondent and of MR.K.ARUN BABU, Advocate for the 2nd Respondent and of MR.S.SATHISH KUMAR, Advocate for the 3rd Respondent the court made the following order:-

The above application has been filed for condoning the delay of 1014 days in filing the first appeal. The first respondent and the third respondent have filed their counter and the second respondent has not chosen to file his counter. Serious allegation of fraud has been levelled against the learned counsel who originally appeared for the petitioner herein. One of the allegation that has been made is that the written statement filed on behalf of the appellant/petitioner before the trial Court has not been signed by her. The appellant/petitioner has produced the certified copy of the said written statement and a perusal of the same would show that



except in the last page, the signature of the petitioner/appellant was not found in any of the earlier sheets. It is also stated that the third defendant was adopting the written statement of the first respondent. The third respondent had also confirmed the statement made by the appellant/petitioner that it was the advocate who had manipulated the written statement and colluded with the advocate who appeared for the first respondent who have taken out an application under Order 7 Rule 11 of the CPC. The said application has been allowed, against which the present appeal has been filed before this Court.

2.The learned counsel for the first respondent would submit that the appellant/petitioner has not explained each days delay and that there is no other reason given in the affidavit for condonation of the delay.

3.Heard the learned counsels and perused the papers.

4.Serious allegation of fraud has been set out in the affidavit filed against the advocate, who had appeared for the defendant in the trial Court. The deponent, namely the appellant/petitioner stated that her erstwhile counsel has filed a written statement on her behalf without obtaining her signature and without her knowledge. The allegation contents in the written statement has not been given by the appellant/petitioner, but it has been included only by the said advocate. The appellant/petitioner has further stated that she has already lodged a complaint against the said advocate on 20.01.2021 before the Bar Council of TamilNadu. The affidavit would further reveal the complicity of the first respondent, his advocate, advocate's wife and sister.

5.By reason of this statement, it is imperative of this Court to allow this petition and the delay of 1014 days is condoned. Accordingly, this Civil Miscellaneous Petition is allowed.

-sd/-

30/09/2021

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.



TO

1. THE PRINCIPAL DISTRICT JUDGE,
NAMAKKAL.

WEB COPY

Order

in
CMP.No.2520 of 2021
in AS.SR.No.14487 of 2021

Date :30/09/2021

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