



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

C.M.P. (MD) .No.2314 of 2021

in

Rev. Aplc (MD) SR No.3162 of 2021

WEB COPY

P.Kumaraswamy

... Petitioner/Review Petitioner

Vs.

1.Thangappan (died)

2.Rajapal Pandian

3.J.Paulraj

4.T.Kumaran

5.T.Kanagam

... Respondents/Respondents

Prayer in C.M.P(MD)No.3162 of 2021:

Civil Miscellaneous Petition filed under Section 5 of Limitation Act, 1963, to condone the delay of 1482 days in filing the review petition.

Prayer in Rev.Aplc(MD)SR No.3162 of 2021:

Review Petition filed under Section 114 r/w Order XLVII Rule 1 of C.P.C., to review the judgment of this Court in S.A.No.274 of 2006 dated 04.01.2017.

Prayer in SA(MD) . 274/ 2006 :

Second Appeal filed under Section 100 of C.P.C., against the Judgment and Decree made in AS.156/2003 on the file of the II Addl.Sub Judge, Nagercoil dt. 10.02.2005 confirming the Judgment and Decree made in OS.1836/1984 dt. 24.10.2002 on the file of the Addl.District Munsif Court, Nagercoil.

For Petitioner : Mr.R.Rajaramani

COMMON ORDER

This petition is filed to condone the delay of 1482 days in filing the review petition.

2.This Court is not convinced with the reasons stated in the affidavit filed in support of this petition to condone the unexplained and inordinate delay of 1482 days in filing the review petition. Despite an opportunity was given to the petitioner to go through the records, the learned counsel appearing for the petitioner expressed his inability to go through the records to find out whether the petitioner had received notice in the Second Appeal. Unless this Court is convinced that the petitioner came to know about the order passed in the Second Appeal very recently, this



Court has no discretion in matters like this to condone the inordinate delay.

3.From the papers, it is seen that notice was served on the respondents in the Second Appeal through Court as well as privately. This Court, after satisfying that notice was served on the respondents in the Second Appeal, had appointed an *Amicus Curiae* to assist the Court so as to present the case for the respondents in the Second Appeal. After hearing the arguments of the learned counsel appearing as *Amicus Curiae*, final order has been passed. The petitioner, without seeing the records or the manner in which the petitioner's case was handled by this Court, has come forward with a false statement as if the petitioner was not at all served notice in the Second Appeal. Such a bald statement of the petitioner is not supported by any document. However, the record reveals otherwise.

4.For coming forward with a false case with regard to want of service to the petitioner in the Second Appeal, this petition is dismissed with cost of Rs.10,000/-. The petitioner is directed to pay the sum of Rs.10,000/- towards cost to the High Court Legal Services Committee attached to this Bench, within a period of two weeks from the date of receipt of a copy of this order. Consequently, Review Application is also rejected at SR stage itself.

Sd/-

Assistant Registrar (A.D I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The II Additional Subordinate Judge,
Nagercoil.

2.The Additinal District Munsif,
Nagercoil.



3.The Secretary,
High Court Legal Services Authority,
Madurai Bench of Madras High Court,
Madurai.

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+1 CC to Mr.R.Rajaramani (Mr.R.Baskaran), Advocate (SR-6636 dated 27/09/2021)

C.M.P. (MD) .No.2314 of 2021
in
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SRR(CO)/RS (20.10.2021) 3P 5C