



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

Friday, the Twenty Sixth day of February Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice N.SATHISH KUMAR

CMP(MD) No.1804 of 2020

IN

AS (MD) SR No.6347 of 2020

RAMASARAVANAN

... PETITIONER/APELLANT/DEFENDANT

Vs

R.S.ASHOK

... RESPONDENT/RESPONDENT/PLAINTIFF

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to condone the delay in 589 days in filing the above first appeal against the judgment and decree dated 31.01.2018 passed in OS.No.53 of 2013 by the learned IV Additional District Judge, Madurai.

PRAYER IN AS (MD) SR No.6347 of 2020:

To call for the original records pertaining to the impugned Judgment and Decree dated 31.01.2018 passed in O.S.No.53 of 2013 by the learned IV Additional District Judge, Madurai and set aside the same and also prayed to dismiss the suit.

ORDER:This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.ANAND JOHNSON for Mr.S.NAMASIVAYAM, Advocate for the petitioner and of Mr.F.X.EUGENE, Advocate on behalf of the Respondent, the Court made the following order:-

This application has been filed to condone the delay of 589 days in filing the appeal against the judgment and decree dated 31.01.2018 made in O.S.No.53 of 2013 passed by the learned IV Additional District Judge, Madurai.

2. The reasons assigned in the application to the effect that the trial Court Lawyers have not properly guided the petitioner and the petitioner was seriously affected with health ailments such chronic diabetics. In the meantime, the respondent / plaintiff filed an Execution Petition and thereafter, he came to know about the facts of the case.



3.The learned counsel for the petitioner would submit that the case papers were misplaced. Hence, there was a delay in filing the above appeal.

4.It is the main contention of the applicant that the respondent has not properly represented before the trial Court and the trial Court has passed the decree and judgment, by drawing an adverse inference against the petitioner on the ground that the documents have not been properly produced and on behalf of the petitioner / defendant, no witnesses have been examined. Such situation is arisen due to the counsel on record. Therefore, valuable right should not be defeated. Hence, he prayed for condoning the delay.

5.The learned counsel appearing for the respondent would submit that the Execution Petition is pending and hence, he opposed this application.

6.On perusal of the above judgment and decree, as rightly pointed out by the learned counsel appearing for the petitioner that the respondent has not produced any document nor appeared, the lower Court had also drawn an adverse interference as against the applicant. The same infact probabalized the contention of the applicant and the nature of exparte decree though the plaintiff side has been examined and it is the contention of the petitioner that the pronote has been forged and if an opportunity is given to him, the same would be established. Since serious allegations have been raised not only on the forgery pronote, the delay appears to be reasonable, this Court is inclined to allow the application by imposing some cost.

7.Having regard to the reasons assigned in the petition and also considering the pandemic situation which was prevailing almost for a year, this Court is inclined to condone the delay by adopting a liberal approach, subject to the payment of **Rs.25,000/- (Rupees Twenty Five Thousand only)** payable to the other side on or before 19.03.2021.

8.Accordingly, this Petition is ordered. Registry is directed to post the appeal on **19.03.2021** for reporting compliance.

sd/-
26/02/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

THE IV. ADDITIONAL DISTRICT JUDGE,
MADURAI

WEB COPY

+1. C.C. to Mr.S.NAMASIVAYAM Advocate SR.No.1599

ORDER

IN

CMP (MD) No.1804 of 2020 IN

AS (MD) SR No.6347 of 2020

Date :26/02/2021

tsg

PK/PN/SAR-III/05.03.2021 : 3P/3C