



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

Monday, the Twentieth day of September Two Thousand and Twenty One
PRESENT

The Hon'ble Mr. Justice A.D. JAGADISH CHANDIRA

CMP(MD) No.3081 of 2021 IN

SA(MD) SR.No.6546 of 2021

WEB COPY

D.MUTHUSAMY

... PETITIONER/APPELLANT

Vs

1. D.VEERACHINNAMMAL
2. A.SUBBAMMAL
3. S.GURUVAMMAL
4. A.PETHANASAMY
5. A.SANKAR
6. BALAKRISHNAN
7. R.MUTHAMMAL

... RESPONDENTS/RESPONDENTS

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 of 1112 days in preferring the above Second Appeal.

PRAYER IN SA(MD) SR.No.6546 of 2021 :

To set aside decree and the judgment dated 11.09.2017 rendered in A.S.No.6 of 2017, on the file of the Subordinate Judge, Virudhunagar, reversing the decree and the judgment dated 01.07.2015 rendered in O.A.No.198 of 2010, on the file of the District Munsif of Virudhunagar, by allowing this Second Appeal and to grant such other relief or reliefs.

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 M/S.P.JESSI JEEVA PRIYA, Advocate for the petitioner, court made the following order:-

This Petition has been filed seeking to condone the delay of 1112 days in filing the above Second Appeal and to take the Second Appeal on file.

2.Heard the learned counsel appearing for the Petitioner / Appellant and perused the materials placed before this Court.

3. Despite service of notice on the respondents, there is no representation for the respondents. The learned counsel for the petitioner has filed a memo stating that respondents 2 and 4 had passed away and respondents 3 and 7 are the daughters and respondents 5 and 6 are the sons of the deceased second respondent and they were already on record and he has given up the fourth respondent. The said memo is placed on record.



4. The learned counsel for the petitioner would submit that the petitioner was unable to contact his counsel, due to his ill-ness and now he is aged about 75 years, thereby, there is a delay of 1112 days in filing the second appeal.

5. Considering the length of delay and the reasons assigned in paragraph Nos.5 and 6 of the accompanying affidavit, this Court is of the view that this petition may be ordered, on payment of costs.

6. In view of the above, this Petition is ordered and the delay of 1112 days in filing the above Second Appeal is condoned, however, on condition that the Petitioner / Appellant pays a sum of Rs.1,000/- (Rupees One Thousand only) to the Legal Services Committee attached to this Bench, towards costs, within a period of two weeks from the date of receipt of a copy of this order, failing which, this Petition shall stand automatically dismissed, without further reference to this Court.

sd/-
20/09/2021

/ TRUE COPY /

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

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 SUBORDINATE JUDGE, VIRUDHUNAGAR.
2. THE DISTRICT MUNSIF, VIRUDHUNAGAR.

COPY TO :

THE OFFICER IN-CHARGE,
LEGAL SERVICES COMMITTEE,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER IN
CMP(MD) No.3081 of 2021 IN
SA(MD) SR.No.6546 of 2021
Date :20/09/2021

USK/JM/SAR-I/ (23.09.2021) 2P-4C