



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

Thursday, the Fourth day of March Two Thousand and Twenty One

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PRESENT

The Hon'ble Mr.Justice N.SATHISH KUMAR

CMP(MD) No.413 of 2019

IN

AS(MD) No.SR877 of 2019

1 THE CHAIRMAN,
TAMIL NADU ELECTRICITY BOARD,
800, K.R.R.MALIGAI,
ANNA SALAI, CHENNAI-600 002.

2 THE SUPERINTENDING ENGINEER,
TAMIL NADU ELECTRICITY BOARD,
THENI DISTRICT.

3 THE EXECUTIVE ENGINEER,
TAMIL NADU ELECTRICITY BOARD,
CHINNAMANUR,
THENI DISTRICT.

... PETITIONERS/APPELLANTS

Vs

1 KALIAMMAL

2 MINOR.JANIFER SOMYA
(MINOR 2nd RESPONDENT THROUGH HER
MOTHER 1st RESPONDENT)

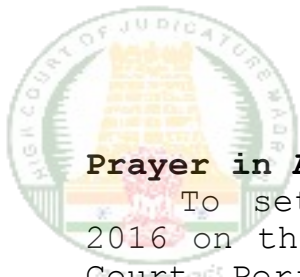
3 ARULANADHAM

4 ANNAMMAL

5 THE DISTRICT COLLECTOR,
COLLECTORATE,
THENI DISTRICT

... 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 142 days in filing the appeal against the Judgment and Decree made in O.S.No.20 of 2016 on the file of the Honourable Additional District and Sessions Court, Periyakulam dated

**Prayer in AS (MD) No.SR877 of 2019:**

To set aside the Judgment and decree passed in O.S.No.20 of 2016 on the file of the Honourable Additional District and Sessions Court, Periyakulam, Theni District dated 19.03.2018.

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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 Ms.M.Parameswari for M/s.S.M.S.Johnny Basha, Standing Counsel for the petitioners and of Mr.J.Barathan, Advocate for Respondents 1 to 4, the Court made the following order:-

This application is filed to condone the delay of 142 days in filing the appeal against the judgment and decree made in O.S.No.20 of 2016, on the file of the Additional District and Sessions Court, Periyakulam, Theni District, awarding compensation, on account of the death of the deceased due to electrocution.

2. The reason for the delay, assigned in the affidavit, is that there was a delay in obtaining opinion from the Government Pleader as to the filing of the appeal and after getting approval from the higher officials. Hence, the delay of 142 days in filing the appeal has to be condoned.

3. This Court heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents.

4. The reason for delay, in view of the Court, is not satisfactorily explained. The delay in getting opinion and getting approval from the higher officials is a routine plea taken by the Government's side. Therefore, such a delay cannot be condoned as a matter of right. However, taking note of the fact that against the decree and judgment, the first appeal is a statutory appeal, this Court is inclined to allow this application, in order to give fair opportunity to the applicant to canvass the case on merits, subject to the condition that the petitioners deposits the entire award amount. However, the learned counsel appearing for the petitioners submits that they prepared to deposit a sum of Rs.10,00,000/- (Rupees Ten Lakhs only).

5. Accordingly, this application is allowed subject to the condition that the petitioners shall deposit a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) to the credit of O.S.No.20 of 2016 on the file of the Additional District and Sessions Court, Periyakulam, Theni District, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the respondents/plaintiffs are permitted to withdraw 75% of the deposited award amount, taking note of the fact the compensation was awarded by applying strict liability theory. In the meanwhile, the proceedings in E.P.No.23 of 2018 on the file of the Additional District and Sessions Court, Periyakulam, Theni District shall stand



stayed. It is also make it clear that if the amount is not deposited, within the time stipulated by this Court, the stay granted by this Court stands vacated automatically without further reference.

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sd/-
04/03/2021

/ TRUE COPY /

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

TO

THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
PERIYAKULAM, THENI DISTRICT.

+1 CC to Mr.T.R.JEYAPALAM, Advocate (SR-1806[I] dated 05/03/2021)

ORDER
IN
CMP(MD) No.413 of 2019
IN
AS(MD) No.SR877 of 2019
Date :04/03/2021

VSM
TE/VR/SAR-II : 09/03/2021 : 3P/3C