



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

Friday, the Twenty Second day of January Two Thousand and Twenty One

WEB COPY

PRESENT

The Hon`ble Mr.Justice N.SATHISH KUMAR

**CMP(MD) No.6911 of 2020
in
A.S. (MD) SR.No.525 of 2017**

1 P.KASIRAJAN
2 S.PERUMAL NAICKER ... PETITIONERS/PETITIONERS/APPELLANTS

Vs

1 KESAVAN
2 K.SELVARAJ
3 K.MUNIAPPAN @ KUTTI
4 K.NAVANEETHAKRISHNAN
5 KULEBA @ VENKATRAMAN
K.DHARMAR @ SUBBIAH (DIED)
6 K.BALAKRISHNAN
7 K.SEENIVASAN @ KASIPERUMAL
8 V.SUBBIAH
9 PAPPAN @ KASI TIRUVENGADASUBBULAKSHMI
10 BALA
11 JOTHI
12 C.SELVARAJ
13 C.PAULRAJ
14 S.INDIRA
15 KASIRAJAN
16 S.APPADURAI
17 S.KRISHNALAKSHMI
18 S.VELMURUGAN

S.VENKATRAMAN (DIED)

19 SUBBURAMAN
20 S.MANI
21 S.VIJAYAN
22 SEETHA
23 SEETHALAKSHMI
24 GANESAMOORTHY
25 CHANDRA
26 RAMANI
27 RANI

... RESPONDENTS/RESPONDENTS/RESPONDENTS



(The Respondents 1 to 18 are the co-plaintiffs in the suit and since the Appellants are not seeking any claim against them the notice may be dispensed with)

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to set aside the default dismissal order as per dated 18.09.2019 and restore the same for further hearing of the application in C.M.P(MD).No.513 of 2017 in A.S(MD).SR.No. 524 of 2017 and thus render justice.

PRAYER in CMP(MD) No.513 of 2017 :

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to condone the delay of 107 days in filing the above Appeal suit and render justice.

PRAYER in AS(MD)No.SR525 of 2017:

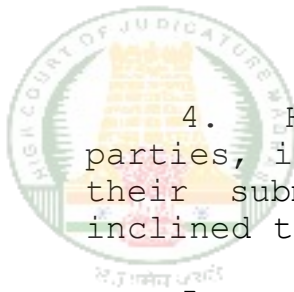
To set aside the Judgment and Decree dated 18.04.2016 passed in O.S.No.47 of 2010 on the file of the 2nd Additional District Court, Thoothukudi.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.G.PRABHU RAJADURAI, Advocate for the petitioner and of MR.P, RONALD, Advocate for R1, R3 to R7, R11, R12, R16 to R18 and MR.T.LAJAPATHI ROY, Advocate for R19 & R22 to R25, the Court made the following order:-

This petition is filed to set aside the default dismissal order dated 18.09.2019 and restore the same for further hearing of the application in C.M.P.(MD)No.513 of 2017 in A.S.(MD)SR.No.525 of 2017.

2. It is submitted by the learned counsel for the petitioners that the application filed in C.M.P.(MD)No.513 of 2017, to condone the delay of 107 days, was allowed, subject to payment of cost of Rs.500/- (Rupees Five Hundred only) to the Legal Services committee. However, due to oversight, the cost will not be paid and therefore, the application was dismissed. Consequently, another application has been filed to restore the same. The said application was also ordered, subject to payment of cost of Rs.2,000/- (Rupees Two Thousand only) to the Mediation and Conciliation Centre). The learned counsel for the petitioners also submit that cost has been paid and if the delay is not condoned, the petitioners will be put to irreparable loss and hardship. Hence, he prays for allowing of this petition.

3. Heard the learned counsel appearing for the respondents.



4. Having regard to the nature of the dispute between the parties, in order to give fair opportunity to the parties to advance their submissions and to agitate their rights, this Court is inclined to allow this application.

5. Accordingly, this Civil Miscellaneous Petition is allowed. Registry is directed to number the Appeal Suit, if it is otherwise in order.

sd/-
22/01/2021

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/ /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

THE 2ND ADDITIONAL DISTRICT COURT,
THOOTHUKUDI.

ORDER
IN
CMP(MD) No.6911 of 2020
in
A.S.(MD)SR.No.525 of 2017
Date :22/01/2021

vsm
AE/JC/SAR-I (01/02/2021) 3P / 2C