



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2021

CORAM

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**

C.M.P. (MD) No.7185 of 2020

in

S.A. (MD) No.SR43687 of 2020

and

S.A. (MD) No.SR43687 of 2020

Natarajan

: Petitioner/Appellant

Vs.

Shantha

: Respondent/Respondent

PRAYER:- Civil Miscellaneous Petition filed under Order 41 Rule 3 (A) of CPC to condone the delay of 3683 days in filing the second appeal filed against the judgment and decree, dated 24.11.2009 made in A.S.No.14 of 2009 on the file of the Subordinate Court, Uthamapalayam.

PRAYER:- Second Appeal filed under Section 100 of Code of Civil Procedure, to set aside the judgment and decree, dated 24.11.2009 passed in A.S.No.14 of 2009 on the file of the Subordinate Court, Uthamapalayam, confirming the decree and judgment, dated 30.01.2009 passed in O.S.No.10 of 1998 on the file of the District Munsif Court, Uthamapalayam.

For Petitioner / Appellant :Mr.I.Suthakaran

For Respondent/Respondent :Mr.G.Sridharan

ORDER

This application has been filed seeking condonation of a huge delay of 3683 days in filing the appeal.

2.The regular appeal in A.S.No.14 of 2009 was disposed of by the lower appellate Court on 24.11.2009. This second appeal has been presented on 09.11.2020. I do not find any explanation for the delay, much less a satisfactory explanation.

3.The petitioner would claim that he approached the authorities for mutation of revenue records, pursuant to the assignment made in favour of his grandfather, Sadamaya Thevar in the year 1925. This very case, that was projected before the Courts below, was rejected. The petitioner had also approached this Court



and filed a Writ Petition in W.P.(MD)No.15838 of 2012 seeking a direction to the revenue officials to dispose of his representation, dated 04.10.2012. That Writ Petition came to be disposed of on 01.04.2014, directing the revenue officials to pass orders on the representation of the petitioner. Claiming that the revenue officials have not taken any action, the petitioner has now filed the second appeal with the above application for condonation of delay.

4. There is no whisper as to why the petitioner did not file the appeal or as to why the petitioner could not file the appeal between 24.11.2009 and 09.11.2020. The entire delay is not explained. There is no explanation for even a days delay in the affidavit filed in support of this petition. The affidavit only narrates the facts that the petitioner had approached the revenue authorities and had filed a Writ Petition before this Court.

5. I am unable to accept the prosecution of those proceedings, as a sufficient cause for condonation of delay. Hence, this Civil Miscellaneous Petition is dismissed and the second appeal is rejected at the SR stage itself. No costs.

Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar (CS)

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To

1. The Subordinate Judge, Uthamapalayam.
2. The District Munsif, Uthamapalayam.
3. The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai (2 copies)

+1cc to Mr. I. Suthakaran, Advocate Sr.No.1161
+1cc to Mr. G. Sridharan, Advocate Sr.No.5590

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