



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2021

CORAM :

WEB COPY

**THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE
AND
The HON'BLE MR.JUSTICE M.DURAI SWAMY**

W.P. (MD) No.17486 of 2021

and

W.M.P (MD) No.14347 of 2021

N.V.Amutha

... Petitioner

Vs

1.The Principal District Judge,
Dindigul District,
Dindigul.

2.The District Munsif cum Judicial Magistrate,
Athoor,
Dindigul District.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings of the first respondent in her proceedings in ROC.No.5590/2021/A1, dated 27.07.2021 and quash the same as illegal and consequently, direct the first respondent to number the appeal filed against the orders passed by the second respondent herein in D.P.No.1/2021, dated 18.03.2021 and D.P.No.2/2021, dated 31.03.2021 and dispose the appeal on merits within a time frame as stipulated by this Court.

For Petitioner : Mr.S.Sarvagan Prabhu
For Respondents : Mr.N.Mohideen Basha

ORDER

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

The writ petition is directed against an appellate order of July 27, 2021, by which the appeal against an order of punishment has been rejected merely on the ground that it was delayed by a few days.

2.The appellate authority noticed that an appeal should have been filed within 60 days of the date of the order of punishment.

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The appellate authority also noticed that the Court remains suspended from May 18, 2021 to May 31, 2021 due to the second surge of the pandemic and it resumes only on June 01, 2021.

3. In the circumstances, the appellate authority appears to have been harsh in not condoning the marginal delay in preferring the appeal.

4. It must be remembered that while the timelines indicated in any provision must be adhered to, when there is a supervening calamity like the pandemic or its second surge, judicial or quasi judicial authorities should be liberal in counting time. Indeed, pursuant to extraordinary orders passed by the Supreme Court, the entire period covered by the initial surge of the pandemic and, subsequently, the second surge was excluded for the purpose of counting limitation.

5. The Limitation Act or the prescription of limitation seeks to penalise a laggard and someone who does not take diligent steps to pursue his rights. In the present case, the marginal delay attributed to the pandemic and the ill-health could not have prompted the appellate authority to decline to exercise the discretion and enlarge the time to receive the appeal and address the same on merits.

6. Accordingly, the order impugned dated July 27, 2021 is set aside. The appeal is restored before the appellate authority, being the Principal District Judge, Dindigul. It is hoped that the appellate authority will dispose of the matter on merits as expeditiously as possible.

7. W.P(MD)No.17486 of 2021 is allowed as above.

There will be no order as to costs. Consequently, W.M.P.(MD) No.14347 of 2021 is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR/RM

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.

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To

1.The Principal District Judge,
Dindigul District,
Dindigul.

2.The District Munsif cum Judicial Magistrate,
Athoor,
Dindigul District.

+1 CC to M/s.S.SARVAGAN PRABHU, Advocate (SR-30444[F] dated
28/09/2021)

W.P. (MD) No.17486 of 2021
27.09.2021

MGJ(04.10.2021) 3P 4C