



S.A.No.208 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

S.A.No.208 of 2020 and
C.M.P.No.4196 of 2020

A.Muthusamy ... Appellant/Appellant/Plaintiff

Vs.

1.The Sub-Registrar,
Sub-Registrar Office,
Perianaickenpalayam,
Coimbatore-35. ... 1st Respondent/ 1st Respondent/1st Defendant

C. Soundaran (Deceased)
... 2nd Respondent/2nd Defendant

2.S.Raghuram

3.S.Neelveni

4.Smt. Lalitha

...Respondent 2 to 4/LR's of Deceased 2nd Defendant

PRAYER: Second Appeal filed under Section 100 of the Code of Civil Procedure against the Judgment and Decree passed in A.S.No.45 of 2004 dated 09.08.2005 on the file of the Principal Sub Court at Coimbatore in confirming the Judgment and Decree made in O.S.No.49 of 1994 dated 06.04.2004 on the file of the Principal District Munsif Court at Coimbatore.

For Appellant : M/s.R.S.Maitreya

For Respondents : Mr.T.R.Rajaraman [R.2 to R.4]



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JUDGMENT

The records in the above appeal would show that the appeal is filed challenging the common Judgment passed in A.S.Nos.79 of 2004, 41 of 2004 and 45 of 2004 by the Principal Subordinate, Judge, Coimbatore dated 09.08.2005. An appeal was filed against the Judgement in one of the appeals viz; A.S.No.79 of 2004 in SA.SR.No.3424 of 2020 along with an application to condone the delay of 5158 days in C.M.P.No.4438 of 2020. This C.M.P. was dismissed after a detailed contest on 15.03.2022.

2. The records in this case would also indicate that the appeal has been filed with a delay of 5158 days. It is also seen that the appellant has filed an application to condone the delay in S.A.Sr.No.3424 of 2020 on 07.01.2020. However, this application was later not pressed by the petitioner on 03.02.2020. A perusal of the certified copies of the Judgment and Decree in A.S.No.45 of 2004 would indicate that the Judgment was passed on 09.08.2005. The appellant has filed a copy of the application only on 18.02.2019 and the copy has been made ready on 06.03.2019 and the appeal has been filed on 07.01.2020. Therefore, on the face of the records it is evident that the Second Appeal is hopelessly barred by limitation.



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3. However, the Second Appeal has been numbered which is not in order especially when the same has been filed with an inordinate delay. Further appeal filed challenging the judgment and decree in the connected appeal A.S.No.79 of 2004 also with a delay in SA.SR.No.3424 of 2020 having been dismissed the same would enure to this appeal as well.

4. Considering the fact that the appellant has not pressed the condone delay petition, the appellant has given up a right to challenge the judgment and decree of the learned Principal Subordinate Judge, Coimbatore in A.S.No.45 of 2004. Consequently, the Second Appeal is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

13.06.2022

Index : Yes/No
Internet : Yes/No
shr

To

1.The Principal Sub Court at Coimbatore.

2.The Principal District Munsif Court at Coimbatore.



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P.T. ASHA, J,
shr

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and
C.M.P.No.4196 of 2020

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