



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Friday, the Eighteenth day of February Two Thousand Twenty Two

PRESENT

THE HON`BLE MR.JUSTICE S.S.SUNDAR

CMP.No.4253 of 2019

in SA.SR.No.41404 of 2018

A.S.RAJA, [PETITIONER]
S/O.SUBRAMANYA CHEEY, NO.48, HIGH ROAD,
(CHOWK ROAD), PERNAMBUT, GUDIYATTAM TALUK,
VELLORE DISTRICT.

Vs

THE PERNAMBUT MUSLIM EDUCATIONAL SOCIETY, [RESPONDENT]
REP. BY ITS GENERAL SECRETARY,
PERNAMBUT, GUDIYATTAM TALUK, VELLORE DISTRICT.

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 2678 days in filling the above second appeal in S.A.Sr.No.41404 of 2018 on the file of this Hon'ble Court (in CMP.No.4253 of 2019).

Order : This petition coming on this day for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.K.BALAJI, Advocate for the petitioner, the court made the following order:-

This petition is filed to condone the delay of 2678 days in filing the Second Appeal.

2.Heard Mr.K.Balaji, learned counsel appearing for the petitioner.

3.The petitioner, in the affidavit filed in support of the petition had stated that when the petitioner was informed by his counsel about the judgment and decree of the Lower Appellate Court, his counsel advised the petitioner to prefer a Second Appeal before this Court. However, due to oversight the copy application was not made in time and on coming to know of the same, the petitioner instructed his counsel to file the copy application on 24.10.2017 and the copy of the judgment was made ready on 30.11.2017.



4.This Court is unable to accept the reasons stated in the affidavit filed in support of the petition. The petitioner has admitted that he knew the disposal of the Appeal on 30.10.2010. He was also advised to file an appeal by his counsel. However, he did not go to the Advocate's office to verify whether the copy application was made nor contacted his counsel for seven years. This is unbelievable. The long delay appears to be on account of abandonment of claim. Filing this appeal is probably an after thought for unknown reasons.

5.The delay is 2678 days, nearly 7 ½ years. The reasons stated by the petitioner in the affidavit are untenable and this Court is of the view that there is callous indifference which prompts this Court to hold that the delay is wilful and wanton. Though this Court has discretion in matters like this to be lenient the leniency if shown in this case, it will lead to miscarriage of justice.

6.Since the delay has not been properly explained by the petitioner, this Court is of the view that the petition has no merits and therefore **dismissed**.

-sd/-

18/02/2022

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SUBORDINATE JUDGE,
GUDIYATTAM.

2 THE DISTRICT MUNSIF,
GUDIATTAM.

Order

in
CMP.No.4253 of 2019

in SA.SR.No.41404 of 2018

Date :18/02/2022

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