



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Wednesday, the Thirteenth day of April Two Thousand Twenty Two

PRESENT

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

CMP.No.15960 of 2016

IN SA.SR.No.73669 of 2016

NALLAMUTHU,
S/O. NARAYANAN,
VENKATAMPETTAI VILLAGE,
KALLAKURICHI TALUK,
VILLUPURAM DISTRICT.

[PETITIONER]

Vs

1 ALAMELU,
W/O. ANNAMALAI

[RESPONDENTS]

2 ARUL,
S/O. ALAMELU,
BOTH RESIDING AT
VENKATAMPETTAI VILLAGE,
KALLAKURICHI TALUK,
VILLUPURAM 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 1356 days in filing the above second appeal and pass such further or other orders as may be necessary in the circumstances of the case and thus render justice (IN CMP.No.15960 of 2016)

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 MRS.G.SUMITRA, Advocate for M/S.I.ABRAR MD ABDULLAH, Advocate for the petitioner, the court made the following order:-

This petition is filed to condone the inordinate delay of 1356 days in filing the second appeal.

2.Heard M/s.G.Sumitra, learned counsel appearing for the petitioner.



3. Notice to respondents 1 and 2 through Court is served on 27.01.2021. The Private Notice was also served on respondents 1 and 2 on 12.01.2021. Despite service of notice on the respondents, none of them is represented through counsel.

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4. In the affidavit filed in support of the petition, it is stated that the petitioner had instructed his counsel to apply for certified copies of judgment and decree of the Lower Appellate Court and the same were made ready on 10.12.2012 and were delivered to his counsel on 10.12.2012. It is further stated that his counsel had also handed over the papers to the new counsel at Chennai who was filing the second appeal.

5. Stating that the petitioner left the village to seek employment elsewhere and that he could not contact his counsel at Chennai, the petitioner stated that the papers handed over to his new counsel at Chennai were misplaced. It is further stated during the 3rd week of September, 2016 the petitioner's counsel received the papers handed over to him for filing the second appeal along with the letter informing his counsel at Chennai that the papers handed over to the petitioner got mixed up with some other papers. Ultimately, it is the case of the petitioner that the appeal papers were handed over to the new counsel at Chennai who have preferred the above appeal. Stating that the delay was due to unavoidable circumstances, the petitioner has come up with the reasons stating that the delay is neither willful nor wanton.

6. This Court is unable to discard the reasons stated in the affidavit in support of the petition. The reasons are accepted and that the delay cannot be termed as willful though the petitioner could have avoided the delay with due diligence. Hence, this Court is inclined to allow this petition on terms.

7. Having regard to the facts narrated in the affidavit filed in support of the petition this petition is **ordered** and the delay of 1356 days in filing the appeal is condoned on condition that petitioner shall pay a sum of Rs.2,500/- [Rupees Two Thousand Five Hundred only] to the State Legal Services Authority, High Court, Chennai, within a period of two weeks from the date of receipt of a copy of this order.

-sd/-

13/04/2022

/ TRUE COPY /

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



TO

1 THE III ADDITIONAL DISTRICT MUNSIF,
KALLAKURICHI.

2 THE SUBORDINATE JUDGE,
KALLAKURICHI.

COPY TO

THE SECRETARY,
TAMIL NADU STATE LEGAL SERVICES AUTHORITY,
HIGH COURT, CHENNAI-104.

Order
in
CMP.No.15960 of 2016

IN SA.SR.No.73669 of 2016

Date :13/04/2022

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