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C.M.P.No.5175 of 2022
in
A.S.Sr.No.87637 of 2021

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A.S.Sr.No.87637 of 2021

R.N.MANJULA, J.

This miscellaneous petition has been filed by the appellant/Government Authorities to condone the delay of 895 days in preferring the First Appeal by challenging the decree of the learned Subordinate Judge, Mahe in O.S.No.32 of 2015.

2. The learned counsel for the petitioners submitted that the delay was caused due to COVID-19 pandemic situation, in which, the Government entirely was busy and the approval of the Government could not be obtained in time. Considering the general inconvenience caused to every one including the Government, the Court should show its indulgence to condone the delay.

3. The learned counsel for the respondent submitted that the suit was decreed on 30.11.2018 itself ; the petitioners had chosen to file the copy application only on 06.09.2020 ; even at the stage of filing the copy



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application there was a delay and hence, the petitioners cannot blame the COVID-19 pandemic situation and get the appeal condoned.

4. The suit was initially filed in the year 2005 in O.S.No.17 of 2005 before the learned Subordinate Judge, Mahe and again, on the point of jurisdiction, the case travelled twice to the file of the District Court and then came back to the Sub Court, Mahe and got re-numbered as O.S.No.32 of 2015. The suit was pending for nearly 16 years, and the decree was passed only on 30.11.2018.

5. Even though, there may be some inconvenience to the Government in getting the paper work and approval at various levels, the hardship and prejudice caused to the respondent cannot be overlooked. The respondent who could not appear before the Court from the year 2005 onwards should not be put at surprise that the appeal has been filed challenging the decree obtained by him. The Government cannot have any reason to cause delay even for applying for certified copy of the decree. The Court has to balance the interest of both the sides, even if a liberal view is taken in condoning the delay.

6. Hence, this miscellaneous petition is allowed on condition that



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the petitioners/Government Authorities shall pay a cost of Rs.5,000/- to the respondent within a period of two weeks, from the date of receipt of a copy of this order, failing which, the petition will stand automatically dismissed.

18.07.2022

Note : Issue Order Copy on 19.07.2022
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