



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Thursday, the Seventh day of April Two Thousand Twenty Two

PRESENT

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

CMP.No.14981 of 2019

in SA.SR.No.36396 of 2019

I.SELVARAJ, [PETITIONER]
S/O.IYYAKANNU, NO.9A, JEEVANANDAM
4TH STREET, KUMARAN NAGAR, AVADI,
CHENNAI - 600 072.

Vs

1 T.P.CHANDRAMATHY, [RESPONDENTS]
W/O.T.K.PREMKUMAR, NO.9A, JEEVANANDAM
4TH STREET, KUMARAN NAGAR, AVADI,
CHENNAI - 600 072.

2 V.SALOMI SASIREKHA,
W/O.V.VEDHANAYAGAM, NO.19, TAGOOR STREET,
PERIYAR NAGAR, AVADI, CHENNAI - 600 071.

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 1223 days in filing the above Appeal (in CMP.No.14981 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.A.C.MANIBHARATHI, Advocate for the petitioner and of M/S.B.CHANDRAN, Advocate (Caveater) for the Respondents, the court made the following order:-

- (1) This petition is filed to condone the delay of 1223 days in filing the above Second Appeal.
- (2) Heard Mr.A.C.Manibharathi, learned counsel appearing for the petitioner and Mr.B.Chandran, learned counsel appearing for the respondents.



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- (3) In the affidavit filed in support of the petition, the petitioner has stated that he took sincere efforts to file the second appeal as against the judgment and decree of the Lower Appellate Court and due to his financial constraints and age related health ailments of the petitioner's father, which is resulted in huge medical expenses continuously, he could not file the appeal within the period of limitation.
- (4) It is stated that the delay is not wilful nor wanton. The petitioner has also referred to the fact that he was paying monthly instalments towards housing loan without any default and had other constraints in approaching the Court. The learned counsel handed over the additional affidavit of the petitioner wherein, it is stated that the petitioner's mother died of cancer after spending huge money in December 2012. It is also stated that the petitioner met with an accident during the year 2015 and suffered with multiple injuries. It is further stated that the petitioner's father died due to old age ailments in June 2016. Stating that the petitioner had other financial commitments by way of interest and faced other difficulties, the petitioner has stated that the delay is neither wilful nor wanton.
- (5) In the counter affidavit filed by the respondents, the respondents have stated that the appeal is devoid of any merits. It is also stated that the delay is wilful except stating the facts and referring to the criminal proceedings against the petitioner/appellant, the respondents had not focused on the reasons stated by the petitioner as in the affidavit or in the additional affidavit filed by the petitioner.
- (6) It is well settled that in the matter of condonation of delay the question is whether the petitioner has shown sufficient cause to the satisfaction of this Court. Though the petitioner has given multiple reasons, the delay was on account of the death of his father and the accident met by the petitioner after the disposal of the appeal, apart from other financial constraints. Though the reasons, stated by the petitioner are not accurate, this Court is unable to discard them. In matters like this, the Court is also expected to show some leniency.
- (7) Having regard to the facts that the petitioner has given plausible reasons and this Court has no material to disbelieve them, this Court is of the view that the delay is neither willful nor wanton. However, there is some amount of negligence on the part of the petitioner and the delay could have been avoided by showing diligence. Hence this petition is allowed on terms.



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(8) Accordingly, this petition is **ordered** on condition that the petitioner shall pay a sum of Rs.5000/- [Rupees Five Thousand Only] to the contesting respondents or to their counsel directly within a period of two weeks from the date of receipt of a copy of this order.

-sd/-

07/04/2022

/ TRUE COPY /

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

TO

1 THE SUBORDINATE JUDGE,
POONAMALLEE.

2 THE PRINCIPAL DISTRICT MUNSIF,
POONAMALLEE.

COPY TO

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

Order

in

CMP.No.14981 of 2019

in SA.SR.No.36396 of 2019

Date :07/04/2022

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