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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2022

CORAM:

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

C.M.P. No.1515 of 2018
in
S.A. Sr. No.31304 of 2017

C.M.P. No.1515 of 2018
in S.A. Sr. No.31304 of 2017

M.Krishnamoorthy alias Settu

..Petitioner

Vs.

1. K.Kathirvel
2. The State of Tamil Nadu,
rep. By The District Collector of
Tiruvannamalai District,
Tiruvannamalai.
3. The Tahsildar,
Taluk Office,
Tiruvannamalai.

4. K.Sundaramoorthy

..Respondents

Civil Miscellaneous Petition is filed under Order 41 Rule 3A
r/w. Order 42 Rule 1 C.P.C., to condone the delay of 2800 days
in filing the second appeal.

For Petitioner : Mr. P.R.Balasubramanian

For Respondent-1 : Mr. R.Chandrasudan

S.A. Sr. No.66932 of 2016

M.Krishnamoorthy alias Settu

..Petitioner

Vs.

1. K.Kathirvel
2. The State of Tamil Nadu,
rep. By The District Collector of
Tiruvannamalai District,
Tiruvannamalai.



3. The Tahsildar,
Taluk Office,
Tiruvannamalai.

4. K.Sundaramoorthy

..Respondents

Appeal suit is sought to be filed against the judgment and decree of dated 30.04.2009 made in A.S. No.87 of 2005 on the file of the Additional Sub Cuort, Tiruvannamalai, confirming the decree and judgment dated 31.08.2005 made in O.S. No.803 of 2004 on the file of the District Judge, (Training) Additional District Munsif -II, Tiruvannamalai.

For Appellant : Mr. P.R.Balasubramanian

For Respondent-1 : Mr. R.Chandrasudan

O R D E R

This petition is filed to condone the delay of 2800 days in filing the above second appeal.

2.In the affidavit filed in support of the petition, the petitioner has stated that the judgment and decree passed by the trial Court was by the District Judge (Trainee), and that therefore, the appeal ought to have been filed before the Principal District Judge and that the Sub-Court has no jurisdiction to entertain the appeal. It is further stated that the appeal was disposed of without proper notice to the petitioner.

3.Learned counsel appearing for the petitioner submitted that no notice was sent to the petitioner before the lower appellate Court. Learned counsel for the first respondent pointed out that the petitioner has engaged a counsel before the lower appellate Court and that the judgment also indicate that the petitioner was represented by a counsel before the lower appellate Court. However, the learned counsel for the petitioner submitted that no counsel was authorised or no vakalat was given by the petitioner to any counsel before the lower appellate Court.

4.The petitioner has not even raised any ground stating that no one was engaged by the appellant before the lower appellate Court. The only submission of the petitioner is that no notice was issued to him before the lower appellate Court. This Court finds no merit in the submission as the petitioner was represented by a counsel before the lower Court. This Court is unable to consider any of the reasons stated by the petitioner



in the affidavit filed in support the petition as plausible. Since the inordinate delay of nearly 8 years is not explained properly, this Court is not inclined to entertain this petition.

5. Accordingly the civil miscellaneous petition is dismissed. Consequently, connected second appeal in S.A. Sr. No.31304 of 2017 is rejected at Sr. stage itself.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

bkn

To:

1. The Additional Sub Cuort,
Tiruvannamalai.
2. The District Judge, (Training) Additional
District Munsif -II,
Tiruvannamalai.

+1cc to Mr.P.R.Balasubramanian, Advocate, S.R.No.22624

C.M.P. No.1515 of 2018
in
S.A. Sr. No.31304 of 2017

MT(CO)
RGA(18/04/2022)