



CMP No.17433 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

CORAM

THE HON'BLE Mr.JUSTICE S.SOUNTHAR

CMP No.17433 of 2022

in

A.S.SR No.85805 of 2022

Kandasamy

....Petitioner/
Appellant

-Vs.-

Viruthambal (Deceased)

1. Saroja
2. Karpagam
3. Valarmathi
4. Anitha
5. Ramanathan
6. Sakthivel



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7. Manager

Thiruchirappalli District Central Co-operative Bank,
Rajaji Nagar,
Ariyalur Taluk,
Perambalur District.

8. Manager,

City Union Bank
Vellalar Street,
Ariyalur

9. Secretary,

Kadur Primary Agriculture Co-operative Bank,
Kadur, Kunnam Taluk,
Perambalur District

..Respondents/Respondents

Prayer in CMP :- Civil Miscellanoues Petition filed under Order 41
Rule 3A of CPC to condone the delay of 1837 days in filing the
present first appeal in A.S.SR No.85805 of 2022.

For Petitioner : Mr.R.S.Maitreya
for K.Vanangamudi

ORDER



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This Civil Miscellaneous petition is filed

seeking to condone the delay of 1837 days. The judgement and decree was passed on 28.04.2016. From the averments found in the affidavit filed in support of the condone delay application, it is seen that the copy application was filed only on 25.07.2022. It is stated by the petitioner that he is 76 years old and he is having several illness associated with his age. It was further stated that he has undergone Angio Surgery in the year 2013 and consequently, bed ridden. The long delay of 1837 days cannot be condoned based on these vague allegations. The petitioner has not filed any material before this Court to substantiate the vague allegation of illness. After Angio surgery in the year 2013, the petitioner appeared before Court below and conducted suit. The judgement impugned in Appeal was passed only on 28.04.2016. Hence, Angio surgery in 2013 will not explain delay period from 2016 to 2022. From the averments found in petitioners affidavit, it is seen that petitioner entered appearance in final decree petition and filed



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counter. Therefore, absolutely there is no justification for inordinate delay of 1837 from 2016 to 2022. The petitioner cannot take shelter under Covid outbreak as it happened only during March 2020. The petitioner has not established “sufficient cause” to condone the inordinate delay. Therefore, this Court is not inclined to condone the delay and accordingly, this CMP is dismissed. Consequently, the Appeal suit is rejected in SR stage itself.

31.10.2022

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S.SOUNTHAR.,J

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in
A.S.SR No.85805 of 2022

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