



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Tuesday, the Fifteenth day of February Two Thousand Twenty Two

PRESENT

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

CMP.No.19589 of 2021

in SA.SR.No.45688 of 2021

S.MURUGESAN, [PETITIONER]
S/O.SUBBAIYAN, DOOR NO.78,
KRISHNASWAMY NAGAR,
RAMANATHAPURAM, COIMBATORE 641 045.

Vs

P.MEENAKSHISUNDARAM [RESPONDENT]
S/O.R.PUNNIYANATHAN PILLAI, DOOR NO.14,
SRI RAJESWARI NAGAR, KOVAIPUDUR PIRIVU,
KUNIAMUTHUR POST, NEAR BATHRAKALIAMMAN KOVIL,
COIMBATORE-641 008.

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 1007 days in filing the above Appeal and thus render justice.(CMP.No.19589 of 2021)

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.R.V.GAYATRI, Advocate for the petitioner and of the Respondent not appearing either in person or by an Advocate, the court made the following order:-

This petition is filed to condone the delay of 1007 days in filing the above Appeal. Despite notice being served on respondent, none appeared and opposed this petition.

2.The petitioner is the plaintiff in the Suit in O.S.No.223/2008 which was filed for recovery of a sum of Rs.8 lakhs from the defendant with interest at 12%. The Suit was dismissed and the Lower Appellate Court in AS.No.81/2013 dismissed the Appeal preferred by the plaintiff/petitioner confirming the judgment and decree of the Trial Court. Aggrieved by the same the above Appeal is filed.

3.The petitioner has stated that the learned counsel could not contact him immediately after the judgment and decree of the Lower Appellate Court and the petitioner is residing with his relative due to financial problems and difficulties. It is the specific case of the petitioner that the petitioner came to know about the status



of the First Appeal when he contacted the erstwhile counsel.

4.It is stated that only during the 1st week of October 2020, the petitioner came to know about the dismissal of Appeal on 13.03.2017 and the learned counsel for the petitioner had applied for certified copies through his new counsel on 15.03.2017.

5.The petitioner has come forward with this petition on the ground that the delay is neither willful nor wanton. In the absence of any material or ground this Court is unable to doubt the reasons stated in the affidavit filed in support of the petition filed by the petitioner.

6.Since the delay has been explained by giving probable reasons, to the satisfaction of this Court, this Court is unable to hold that the delay is not properly or duly explained. However, this Court is of the view that the delay could have been avoided by due diligence.

7.Hence, this petition is ordered and the delay of 1007 days is condoned on condition that the petitioner should pay a sum of Rs.2500/- [Rupees Two Thousand Five Hundred Only] to the Tamil Nadu Legal Services Authority, attached to this Court within the period of two weeks from the date of receipt of a copy of this order.

-sd/-

15/02/2022

/ TRUE COPY /

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

TO

1 THE I ADDITIONAL DISTRICT JUDGE,
COIMBATORE.

2 THE PRINCIPAL SUBORDINATE JUDGE,
COIMBATORE.

COPY TO
THE SECRETARY,
THE TAMILNADU LEGAL SERVICES AUTHORITY,
HIGH COURT, MADRAS-104.

Order
in
CMP.No.19589 of 2021
in SA.SR.No.45688 of 2021
Date :15/02/2022

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