



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Friday, the Twenty Fifth day of February Two Thousand Twenty Two

PRESENT

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

CMP.NO.26813 OF 2019

IN SA.SR.NO.145566 OF 2019

MUTHUNAICKA

[PETITIONER]

Vs

1 VENKATTAMMA

[RESPONDENTS]

2 BANGARU

3 MADEVA @ MADHES

4 RANGASAMY @ ODDAKALAN

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 1060 days in filing the above Second Appeal in SA.SR.No.145566 of 2019 on the file of this Hon'ble court (in CMP.NO.26813 OF 2019).

Order: This miscellaneous 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.N.MANOKARAN, Advocate for the petitioner and of MRS.M.K.GOMATHY, Advocate for MR.B.KUMARASAMY, Advocate for the Respondents, the court made the following order:-

(1)The present miscellaneous petition is filed to condone the delay of 1060 days in filing the Second Appeal. Heard the learned counsel appearing for the petitioner and respondents.

(2)In the affidavit filed in support of the miscellaneous petition, the petitioner admitted that the copy application was made on 21.11.2015 and printed charges were also deposited on 12.01.2016 without any delay. It is further admitted that copies were made ready and delivered on 27.09.2016. After admitting the fact that the copies of the judgments and decrees were delivered to the petitioner on 27.09.2016, the petitioner has given reasons which are inconsistent. However, the petitioner has stated that he is an illiterate and hailing from a remote village. It is one of the contentions that due to illiteracy and financial constraints, the petitioner was prevented from filing the appeal in time.



(3) Though the reasons found in paragraph No.8 of the affidavit are out of context and inconsistent, this Court is of the view that the petitioner though has given inconsistent reasons, can be shown some indulgence in view of the overall facts and circumstances of the case and the earnest efforts made by the petitioner after presenting the appeal.

(4) This Court is reminded of several judgments of the Hon'ble Supreme Court and this Court, wherein it is held that the Court should always be lenient as the Courts should adopt a liberal view while condoning the delay so that the parties will get their case adjudicated on merits. This Court is unable to find that there is willful negligence amounting to misconduct. However, the delay is nearly three years. Hence, this Court is inclined to compensate the respondents for the inordinate delay.

(5) Accordingly, this Civil Miscellaneous Petition is **ordered** and the delay of 1060 days in filing the Second Appeal is **condoned on condition that the petitioner pays a sum of Rs.20,000/- [Rupees Twenty Thousand only] to the respondents through their counsel within a period of three weeks from the date of receipt of a copy of this order.**

-sd/-
25/02/2022
/ TRUE COPY /

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

TO

1 THE SUBORDINATE JUDGE,
SATHYAMANGALAM.

2 THE DISTRICT MUNSIF,
SATHYAMANGALAM.

Order

in
CMP.NO.26813 OF 2019

IN SA.SR.NO.145566 OF 2019

Date :25/02/2022

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