



ORDER

This Civil Miscellaneous Petition is filed to condone the delay of 345 days filing the Second Appeal in S.A.(MD) SR No.1454 of 2022, which has been filed challenging the judgment and decree dated 01.04.2019 passed in A.S.No.8 of 2017 on the file of the VI Additional District Court, Madurai, reversing the judgment and decree dated 22.10.2016 passed in O.S.No.28 of 2010 on the file of the Principal Subordinate Court, Madurai.

2. Rule is to follow law of limitation. Condonation of delay is an exception. Therefore, exception can never become a rule. Thus, condonation of delay must be done only if reasons are adequate and sufficient enough for the Court to take a decision.

3. The pleadings regarding the family situation if accepted, would defeat the law of limitation. Every family in this country have one or the other problem and such issues cannot be considered as a ground for the purpose of condoning the enormous delay. No doubt, certain reasonable delay can be condoned on such ground, but certainly not the huge delay.

4. The learned counsel appearing for the petitioners made an attempt to argue the case on merits. The reasons stated in the petition for condoning the delay are pivotal and certainly not the merits involved in the appeal suit or the original suit. The learned counsel for the petitioners made a submission that any condition or cost may be imposed for condoning huge delay. Cost cannot compensate the delay and in the event of Courts accepting such cost for condoning the huge delay, undoubtedly the law of limitation has not only be diluted, but disrespected.

5. The purpose of law of limitation is to ensure that the litigants are vigilant and prudent enough in pursuing their rights in accordance with law. A person, who is not vigilant in pursuing his right, then such a person is not entitled for any relief from the hands of the Courts. No doubt, the Courts are taking consistent view in condoning the delay, if such delay is meagre. However, enormous delay in filing the appeals cannot be condoned in a routine manner. For instance, if the delay is one or two months, then the Courts are always liberal in condoning the delay, understanding the practical difficulties of the litigant. However, if the delay goes beyond the reasonable period, then the reasons must be specific, which all are to be acceptable to the court of law.

6. By condoning the enormous delay, Courts are not expected to dilute the law of limitation. The law of limitation has got a definite purpose and object. If such object is defeated, then everybody will file appeal at their wish without reference to the delay and the same will cause prejudice to the rights of the other



parties, who all are the decree holders. The Courts are bound to take a balanced approach. The rights of the decree holders are to be protected. Enormous delay in filing the appeal would cause prejudice to the rights of the other parties. Thus, any appeal is to be filed within the period of limitation and in the event of enormous delay in filing the appeal, the Courts are expected to be cautious in condoning the delay and it cannot be a mechanical affair. In every such delay, the reasons must be stronger enough to consider the same. Otherwise, the parties are not entitled to get such enormous delay condoned.

7. In the present case, the reason furnished for condoning the delay is that the husband of the petitioner died. However, the learned counsel for the respondents disputed the said contention by stating that the husband of the petitioner died during the pendency of the first appeal and the impleadment of the legal heirs was also completed even during the pendency of the first appeal on 20.07.2018. Thereafter, the first appeal was allowed on 01.04.2019.

8. The learned counsel for the petitioners states that the petitioners could not able to mobilise the funds within the reasonable period of time. Even in such cases, this Court is of the considered opinion that the appeals must have been filed with available funds and if a petition is filed to condone the delay in paying deficit of court fee, at least the genuinity can be understood but not otherwise. Therefore, a person, who is not vigilant enough in pursuing the appeal, cannot be encourage, as it involves the rights of the other person and in the event of entertaining an appeal and keeping the same pending for years together will cause prejudice to the rights of the decree holders. The rights must be exercised within a reasonable period of time by filing an application adhering the principle of law of limitation. At no circumstances, the Courts can dilute the law of limitation in a routine manner. In such an event, the very principle and object of law of limitation is defeated and therefore, this Court is not inclined to consider the claim of the petitioner for condoning the delay of 324 days in filing the second appeal.

9. Accordingly, the Civil Miscellaneous Petition stands dismissed and the Second Appeal in S.A.(MD) SR.No.1454 of 2022 stands rejected at the SR stage itself. No costs.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)



To

1.The VI Additional District Judge, Madurai.

2.The Principal Subordinate Judge, Madurai.

COPY TO:

The Section Officer, V.R.Section,
Madurai Bench of Madras High Court, Madurai. (2 COPIES)

+1 CC to M/s.K.GANESAN, Advocate (SR-14813[F] dated 28/03/2022)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-15156[F] dated
29/03/2022)

C.M.P. (MD) No.650 of 2022 in
S.A. (MD) SR No.1454 of 2022
28.03.2022

_RD(07.04.2022) 4P 7C