



CMP No.15240 of 2022
and AS.SR.No.24142 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

CMP No.15240 of 2022
and AS.SR.No.24142 of 2021

Bharat Petroleum Corporation Limited,
Registered Office at Bharat Bhavan
4 & 6, Currimbhoy Road, Ballard Estate,
Mumbai, Regional Office at Irugur Top
Installation, Ravathur Post, Irugur via.
Coimbatore,
Rep. by its Regional Manager

.. Petitioner/Appellant

Vs.

1. M/s.Sakthi Sugars Limited,
Race Course Road, Coimbatore,
Rep. by its Deputy President (Taxation),
P.Sankararaja Pandian.
2. Akhilandeswari Carbon Gas Private Limited
93, Idigarai, Coimbatore,
rep. by its Chairman and Managing Director,
Mr.Prakash

.. Respondents/Respondents

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Prayer in CMP.No.15240 of 2022: This petition has been filed under Section 5 of Limitation Act, 1963 to condone the delay of 944 days in preferring the First Appeal in AS.SR.No.24142 of 2021.

Prayer in AS.SR.No.24142 of 2021: This Appeal Suit is filed under Section 96 CPC against the judgment and decree dated 09.03.2018 made in OS.No.5 of 2016 on the file of the learned III Additional District and Sessions Court, Gobichettipalayam, Erode District.

For petitioner/appellant : Mr.John Joseph
for Mr.O.S.Karthikeyan
For respondents
for R1 : Mr.KMC.Arunmogan
for Mr.S.Sathyannarayanan

JUDGMENT

(The Judgment of the Court was delivered by S.VAIDYANATHAN, J)

The miscellaneous petition has been filed to condone the delay of 944 days in preferring the appeal.

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2. On a perusal of the affidavit filed in support of the petition, it is seen that the petitioner is trying to project that the delay had occurred on account of Covid-19. The Covid situation started only in the year 2020. However, even before that there is an exorbitant delay of 2 years. In paragraph 4 of the affidavit, though the delay has been explained in a tabular column, the reason for causing such a huge delay has not been properly explained.

3. It is represented by the learned counsel for the petitioner that the original counsel had handed over the matter and passed away. However, there is no iota of evidence to show that steps were taken by the petitioner to condone the delay.

4. After detailed arguments, the learned counsel for the petitioner sought time to engage another counsel to appear before this Court. However, we are not inclined to accept the request of the petitioner as the delay itself has not been properly explained. Further, the situation of

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Covid-19 has no relevance to the case on hand as there is an exorbitant delay even before the spread of Covid-19 and the delay has also not been properly explained. The Apex Court in the case of M/s.Ruskin Sea Foods Limited vs. M/s.Evergreen Sea Foods Pvt. Ltd. reported in MANU/TN/0876/2018, has held that if delay is long and explained properly with reasons, the same can be considered; in case, the delay is short and reasons are not satisfactory, the Court can dismiss the same on the ground of laches. Hence, the miscellaneous petition is dismissed. Consequently, the appeal suit is rejected at the S.R. stage itself. No costs.

(S.V.N.J.,) (R.K.M.J.,)
19.04.2023

Speaking Order: Yes / No
pvs

To

1. The III Additional District and Sessions Judge,
Gobichettipalayam, Erode District
2. The Section Officer, V.R.Section, High Court, Madras



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