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CMP No.22202 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2023

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CMP No.22202 of 2022
in
SA SR.No. 88979 of 2022

1. Palanisamy
2. Veeramani

... Petitioners/Appellants
Vs

S.Manivannan ... Respondent/Respondent

PRAYER : Civil Miscellaneous Petition filed under Section 5 of Limitation Act to condone the delay of 1697 days in filing the above second appeal.

For Petitioners : Mr.S.Kalyanaraman
For Respondent : No appearance

ORDER

This petition has been filed to condone the delay of 1697 days in filing the second appeal.

2. The petitioners are the defendants in the suit filed by the respondent herein for recovery of money on the Pronote dated 23.10.2005. The suit was decreed in favour of the respondent.



CMP No.22202 of 2022

Aggrieved by the same, the petitioner preferred an appeal suit and the same was also dismissed and the Judgment and Decree passed by the Trial Court was confirmed. Aggrieved by the same, the present second appeal is filed along with the petition to condone the delay of 1697 days in filing the second appeal.

3. A perusal of the affidavit filed in support of the condone delay petition reveals that the First Appellate Court dismissed the appeal by a Judgment and Decree dated 04.08.2017. The petitioner applied for certified copies on 18.08.2017. Though the petitioners were furnished with the Judgement of the appeal suit on 18.06.2018, they were not provided with decree copy. Therefore, again the petitioners applied for certified copy of the decree. Only thereafter, they were provided Judgment and Decree on 01.10.2019. However, it was misplaced by the Registry of the First Appellate Court. Therefore, there was a delay.

4. It is seen that 1697 days is very huge delay. The petitioners simply stated in the affidavit that they were provided only Judgment copy and that they were not provided the decree of the First Appellate Court. Except the said reason, no other reason was mentioned



CMP No.22202 of 2022

in the affidavit. Therefore, this Court directed them to produce the certified copies of the copy application which was originally made on 18.08.2017 and other documents. However, the petitioners could not produce the same before this Court. Therefore, they have stated insufficient cause to condone the delay of 1697 days. That apart, the respondent filed a suit for recovery of money on the strength of the Pronote. Both the Courts below held that the petitioners are liable to pay the decree amount. Therefore, this Court is not inclined to condone the delay of 1697 days in filing the second appeal.

5. Accordingly, this Civil Miscellaneous Petition stands dismissed. The SA.SR.No.88979 of 2022 is rejected at SR stage itself. No costs.

20.02.2023

Index :Yes/No

Internet :Yes/No

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WEB COPY



CMP No.22202 of 2022

G.K.ILANTHIRAIYAN, J.
Lpp

CMP No.22202 of 2022
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