



WEB COPY



C.M.P.No.18576 of 2023

in

S.A.Sr.No.104258 of 2023

P.T.ASHA, J.,

The above application is filed for condoning the delay of 303 days in filing the above Second Appeal.

2. The defendants 1 to 6 before the Sub Judge, Chidambaram in a suit O.S.No.178 of 2017 are the appellants/petitioners before this Court.

3. The suit was filed for a declaration of title and permanent injunction restraining the defendants 1 to 6, their men, agents and persons claiming under them from in any manner interfering with plaintiffs' peaceful possession and enjoyment of the suit property and alternatively for recovery of possession of the suit property and for permanent injunction restraining the defendants 1 to 6 and persons claiming right under them from in any manner encumbering or alienating the suit property with the 7th defendant.



WEB COPY



4. The appellants/petitioners herein had taken out an application under the provisions of Order 7 Rule 11(a) r/w Section 15 of the C.P.C. in I.A.No.386 of 2020 on the file of The Subordinate Judge, Chidambaram for rejecting the plaint. This application was allowed which was challenged by the plaintiffs in A.S.No.22 of 2021 on the file of the II Additional District & Sessions Court, Chidambaram. The Lower Appellate Court has reversed this judgement and decree and challenging the same the defendants 1 to 6 are before this Court.

5. The appellants/petitioners herein have set out the reasons for the delay in paragraph nos. 6 and 7 of the affidavit filed in support of the condone delay petition. The appellants/petitioners have stated that the petitioners 1 to 3 herein are Muslim pardanashin women and the 4th petitioner herein is a sick person suffering from Blindness and it was these women who had to take all necessary steps to file this appeal.



WEB COPY



6. The appellants/petitioners would further submit that they were not able to get a proper response from their counsel and ultimately, they had to change their counsel and also arrange for Court fees. Therefore, the delay of 303 days has crept in.

7. A counter affidavit has been filed in which the 2nd respondent herein has denied the various allegations contained in the affidavit filed by the appellants/petitioners. In the counter, the 2nd respondent would submit that the reasons given for condoning the delay are not acceptable because even after obtaining the certified copies of judgement and decree, the appellants/petitioners have not taken any steps to immediately approach the Court. Therefore, the reasons set out in the condone delay petition does not support the case of the appellants/petitioners.



WEB COPY



8. Heard the learned counsels.

9. The delay is 303 days and the appellants/petitioners have given reasons as to how the delay had crept in. The respondent has not denied the fact that the petitioners are Muslim pardanashin women who are not in a habit of liasoning with advocates and the only male member of the family is suffering from blindness. The reasons given by the plaintiffs/appellants are all genuine and this Court cannot at this juncture throw out the petition especially when valid reasons have been given for the delay.

10. In the light of the above, the delay of 303 days in filing the above Second Appeal is condoned.

11. The Registry is directed to number the appeal, if it is otherwise in order and list the same for admission.



WEB COPY shr



5

08.12.2023

P.T.ASHA.J

shr

C.M.P.No.18576 of 2023
in
S.A.Sr.No.104258 of 2023

08.12.2023



WEB COPY

