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C.M.P.No.2673 of 2023
in C.M.A.Sr.No.118769 of 2021

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N.MALA, J.,

This petition is filed to condone the delay of 2433 days in filing the appeal against the Judgment and Decree dated 30.07.2014 made in MCOP.No.10 of 2011 on the file of the Motor Accident Claims Tribunal, Gingee.

2.The petitioners in their affidavit filed in support of the petition to condone the delay of 2433 days stated that the certified copy of the award dated 30.07.2014 was applied on 20.01.2021 and the copy application was made ready only on 12.02.2021. The petitioners further stated that due to the financial incapacity and health problems of the petitioners, the appeal could not be filed in time.

3.The respondent Nos.1 and 2 filed counter to the condone delay petition stating that the inordinate delay of 2433 days was not properly explained and



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that the petitioners have not approached the Court with clean hands.

4.The learned counsel for the first respondent referring to the averments made in the counter submitted that the petitioners filed the execution petition in E.P.No.66 of 2015 to execute the impugned award. According to the learned counsel the execution petition could not have been filed without the certified copy of the impugned award. The learned counsel therefore submitted that the petitioners have approached the Court with unclean hands. He further submitted that in pursuance of the execution proceedings the entire amount was deposited by the first respondent in the execution petition and the execution petition was terminated on 27.11.2019 recording full satisfaction. He further submitted that once the execution petition was terminated recording full satisfaction, the appeal challenging the award was not maintainable.

5.The learned counsel for the second respondent reiterated the submissions made by the first respondent. There is an inordinate delay of 2433



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days in preferring the appeal. It is to be seen if for the inordinate delay sufficient cause is made out. It is no doubt true that the term sufficient cause has to be liberally construed. Sufficient cause in my view will be viewed liberally only when it is bonafide and not due to deliberate inaction and negligence. The discretion vested in the Court under Section 5 of the limitation act is discretionary in nature. The discretion is to be exercised on sound and reasonable grounds and not merely on sympathy. In the present case it is seen that the petitioner filed the Execution Petition as early as in 2014 and satisfaction was recorded in Execution Petition in 2019. As rightly contended by the learned counsel for the respondent, the petitioner could not have filed the Execution Petition without the certified copy of the award. Therefore, the learned counsel for the respondents are justified in their contention that the petitioner approached the Court with unclean hands. It is to be noted that the discretionary relief cannot be invoked in favour of a person who lacks bonafide.

6.I am therefore of the view that as the petitioner has not explained the inordinate delay of 2433 days in filing the appeal and has also approached the



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Court with false averments, the petitioner is not entitled to the discretionary relief.

N.MALA, J.,

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7.I am therefore of the considered view that there are absolutely no bonafides in the condone delay petition filed to condone the inordinate and unexplained delay of 2433 days and hence the same is dismissed.

19.04.2023

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