



WEB COPY



C.M.P.No.23314 of 2023

C.M.P.No.23314 of 2023
in
S.A.SR.No.139585 of 2022

P.T.ASHA, J.,

The above petition is filed for condonation of delay of 966 days in filing the above second appeal. The appellant is the defendant in the suit in O.S.No.123 of 2015 filed by the respondent herein for recovery of a sum of Rs.6,26,400/- together with future interest and costs.

2. The petitioner's defence to the above suit was that he had only borrowed a much lesser amount than what was pleaded. The petitioner has clearly stated that he has not borrowed a sum of Rs.2,00,000/- and Rs.3,00,000/- as alleged by the respondent. The suit, after contest, was dismissed by judgment and decree dated 12.03.2018.

3. Thereafter, the respondent had filed A.S.No.12 of 2018 on the file of the Court of II Additional District Judge, Ranipet. The learned Judge had reversed the judgment and decree of the Trial Court and allowed the appeal.



4. The petitioner would submit that the appeal was allowed on 10.12.2019 and the judgment and decree was made ready on 22.01.2020.

The petitioner would submit that he had entrusted the suit as well as the appeal to a counsel named V.Chandrakesan, who had passed away and thus, he is not able to get the copies of the documents. It was only when notice in the Execution Petition had been received that the petitioner had taken steps to approach the counsel at Chennai.

5. The petitioner would submit that since he is not possessed with the necessary wherewithal for conducting the proceedings and therefore, he had taken out a petition to declare him as indigent person. This Court was pleased to allow this petition as well.

6. A counter has been filed *inter alia* contending that the affidavit filed in support of the condonation of delay petition does not have any merits and it was only a ruse to avoid paying the decree amount. Therefore, the respondent sought for the dismissal of this petition.



WEB COPY

C.M.P.No.23314 of 2022



7. Heard the learned counsel appearing on either side.

8. The reason assigned for the delay is that the learned counsel who was entrusted with the brief, has passed away and thereafter, the petitioner had to obtain all the papers. Considering the fact that the reasons given in the affidavit filed in support of this petition are sufficient and appear to be *bona fide*, the delay of 966 days in filing the above appeal in S.A.SR.No.139585 of 2022 is condoned and this petition is allowed.

9. The Registry is directed to number the appeal, if it is otherwise in order and list the same for admission and print the name of Mr.S.Jeremiah Gregory John, learned counsel for the respondent when the matter is listed for admission.

14.12.2023

ssa



WEB COPY



C.M.P.No.23314 of 2023

P.T.ASHA, J.,

ssa

C.M.P.No.23314 of 2023
in
S.A.SR.No.139585 of 2022



WEB COPY



C.M.P.No.23314 of 2023

14.12.2023