



C.M.P.(MD).No.11229 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2023

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.P.(MD).No.11229 of 2022

in

S.A.(MD).SR.No.16148 of 2014

Tamil Nadu State Transport Corporation
(Division III),
Represented by its General Manager,
Marudhupathi,
Karaikudi,
Sivagangai District.

... Petitioner/Appellant

Vs.

1.Murugesan

2.Srihari Rao

3.Manivasagam

4.Sivakumar

5.Kalaimani

...Respondents/Respondents

Prayer in C.M.P.(MD).No.11229 of 2022: Civil Miscellaneous Petition is filed under Order 4 Rule 9(4) of A.S. Rules to condone the delay of 2388 days in re-presenting the above Second Appeal in S.A.(MD).SR.No.16148 of 2014 before this Court.

Prayer in S.A.(MD).SR.No.16148 of 2014: Second Appeal is filed under Section 100 of CPC to set aside the judgment and decree dated 27.09.2013



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passed in A.S.No.243 of 2006 on the file of the Principal Subordinate Judge, Tiruchirappalli, confirming the judgment and decree dated 30.10.2006 passed in O.S.No.1400 of 2004 on the file of the Principal District Munsif, Tiruchirappalli and allow the Second Appeal.

For Petitioner : Mr.P.M.Vishnu Varthanan

For R-2, R-3 and R-5 : Mr.N.Rahamadullah

ORDER

The Civil Miscellaneous Petition is filed to condone the delay of 2388 days in re-presenting the Second Appeal.

2. It is averred by the petitioner/appellant that the petitioner/appellant had challenged the judgment and decree in A.S.No.243 of 2006 dated 27.09.2013. They had filed the Second Appeal on 01.04.2014. Registry returned the papers on 03.04.2014 for certain compliance. At the time of filing the Second Appeal, they had not produced the decree of the Courts below and the pleadings set. They have applied for the same before the Lower Appellate Court. However, they did not receive any papers. Hence, on 19.11.2019, they filed a fresh copy application before the lower court and obtained the decree in the suit and the appeal. However, they could not obtain the pleadings.



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3. This Court finds that the reasons stated by the petitioner/appellant for delay in representing the Second Appeal are vague. The petitioner/appellant has not stated as to when they had applied initially for the copies of the judgment and decrees of the Courts below and the pleadings. Though normally this Court would not dismiss a petition for condoning the delay in re-presentation, but in the facts of the instant case, this Court is of the view that the petitioner/appellant has not explained cause for the delay sufficiently. Further, the petitioner/appellant has not re-presented the Second Appeal with the pleadings. The enormous delay in obtaining the copies of the decrees of the Courts below as a reason for delay in re-presentation cannot be accepted.

4. In view of the above, this Court finds that no sufficient cause has been shown for re-presenting the Second Appeal with a delay of 2388 days. Hence, the Civil Miscellaneous Petition is dismissed. Consequently, S.A.(MD).SR.No.16148 of 2014 is rejected.

13.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Lm



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To

- 1.The Principal Subordinate Court,
Tiruchirappalli
- 2.The Principal District Munsif Court,
Tiruchirappalli.
- 3.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

Lm

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in
S.A.(MD).SR.No.16148 of 2014**

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