



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Friday, the Second day of June Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice ABDUL QUDDHOSE

CMP(MD) No.4080 of 2023

in

SA(MD) SR.No.20614 of 2023

1 GANESAN

2 P.CHELLAPPA (DIED) .

3 ESAKKIRAJA

4 RAJAMMAL

5 BHAGAVATHY

6 ESAKKIAMMAL

7 BAKYALAKSHMI

... Petitioners / Appellants

Vs

RAJ

... Respondent / Respondent

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to condone the delay of 291 days in filing the Second Appeal.

Prayer in SA(MD) SR.No.20614 of 2023:

To set aside the judgment and decree passed in A.S.No.98/2019 dated 06.08.2020 on the file of the Additional Sub court, Tirunelveli, by reversing the Judgment and decree passed in O.S.No.361/2013 dated 26.04.2019 on the file of the II Additional District Munsif Court, Tirunelveli.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S. J.JEYAKUMARAN, Advocate for the petitioner and of Mr.K.P.NARAYANAKUMAR, Advocate for the Respondent, the court made the following order:-

This petition is filed to condone the delay of 291 days in filing the Second Appeal.



2. Despite two opportunities having been granted to the respondent to file a counter, till date counter has not been filed.

3. The petitioners are the defendants in the suit. The suit was filed for permanent injunction. The trial court dismissed the suit filed by the plaintiff. However, the lower Appellate Court has reversed the findings of the trial court by allowing the first appeal filed by the plaintiff. Aggrieved by the same, this Second Appeal has been filed. Being reversal findings and that too when counter affidavit has not been filed till date in the application filed by the petitioners to condone the delay of 291 days in filing the Second Appeal, this Court is inclined to allow this application by putting the petitioners on terms.

4. Accordingly, this application is allowed as prayed for by directing the petitioners to deposit Rs.1,000/- (Rupees one thousand only) to the Advocate Clerks Association, Madurai Bench of Madras High Court, Madurai, within a period of one week from the date of receipt of a copy of this order. On production of receipt for the aforesaid amount within the stipulated time, the Registry is directed to number the Second Appeal, if the papers are otherwise in order and list the same for admission by printing the name of Mr.K.P.Narayanakumar, learned counsel for the Caveator.

sd/-

02/06/2023

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/06/2023

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CM

To

1.The Additional Sub Judge,
Tirunelveli.

2.The II Additional District Munsif,
Tirunelveli.

Copy to:

1.The Officer Incharge,
Advocate Clerks Association,
Madurai Bench of Madras High Court,
Madurai.

<https://www.mhc.tn.gov.in/judis>



CMP(MD)



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2.The Sub Assistant Registrar,
AE Section,
Madurai Bench of Madras High Court, Madurai.

3.The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court, Madurai.

ORDER

IN

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in

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Date :02/06/2023

ED/MMS/SAR- (07/06/2023) 3P 6C