



CMP(MD) No.5988 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Civil Appellate Jurisdiction)

Wednesday, the Eleventh day of October Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CMP(MD) No.5988 of 2023

in

SA(MD) SR.No.76719 of 2022

1 NAGARAJ

2 SAKTHIVEL

3 GOPAL

4 ARUMUGAM

... PETITIONERS/PETITIONERS

Vs

GOVINDHARAJ

... RESPONDENT/RESPONDENT

Civil Miscellaneous 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 136 days in filing the above Second Appeal in S.A. (MD). SR. No. 76719 of 2022 before this Honourable Court.

PRAYER IN SA(MD) SR.No.76719 of 2022 :

To set aside the judgment and decree dated 13.12.2021 made in A.S.No.26 of 2019 on the file of the Additional Sub-Court, Palani reserving the judgment and decree dated 25.01.2019 made in O.S.No.262 of 2012 on the file of the District Munsif Court, Palani.

ORDER : This Civil Miscellaneous 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.D.VENKATESH, Advocate for the petitioner and of MR.S.KARTHIK, Advocate on behalf of the Respondent, the court made the following order:-

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



CMP(MD) No.5988 of 2023

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This Civil Miscellaneous Petition is filed to condone the delay of 136 days in filing the above second appeal.

2.The learned counsel for the petitioners submitted that the petitioners/appellants are the defendants before the trial Court in O.S.No.262 of 2012. The suit was filed by the respondent seeking the relief of easementary right and injunction in respect of the suit property, which is a pathway. The suit was dismissed. Against the said dismissal, the respondent filed an appeal in A.S.No.26 of 2019 on the file of the Additional Sub Court, Palani and that appeal was allowed. Now, challenging the said judgment in A.S.No.26 of 2019, this second appeal is filed.

3.He further submitted that the appellants were affected by Jaundice and were taking native treatment. Due to National lock down due to COVID-19 for a period of two years, they suffered heavy financial loss and were unable to mobilize money for paying the Court fee and all these reasons contributed for the delay of 136 days in filing the second appeal. Thus, this petition.

4.The learned counsel for the respondent has no serious objections for condoning the delay.

5.Considering the reasons stated for the delay of 136 days in filing the second appeal and having satisfied with the reasons stated in the affidavit filed in support of this petition, this petition is allowed on condition that the petitioners pay a sum of



CMP(MD) No.5988 of 2023

Rs.1,000/- (Rupees One Thousand only) to the respondent. Registry is directed to

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number the second appeal, if it is in order.

sd/-

11/10/2023

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/10/2023

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

mm

TO

1 THE ADDITIONAL SUBORDINATE JUDGE, PALANI.

2 THE DISTRICT MUNSIF, PALANI.

COPY TO

1 THE SUB ASSISTANT REGISTRAR, A.E.SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

2 THE SECTION OFFICER, JUDICIAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CMP(MD) No.5988 of 2023
in

SA(MD) SR.No.76719 of 2022

Date :11/10/2023

RS/DD/SAR-(17.10.2023) 3P 5C

Madurai Bench of Madras High Court is issuing
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