



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

Thursday, the Eighth day of June Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice ABDUL QUDDHOSE

CMP(MD) No.11732 of 2022

IN

SA(MD) SR.No.32743 of 2016

MARUDHU

... PETITIONER/APPELLANT

Vs

1 MOHAN

2 BALAKRISHNAN,

... RESPONDENTS/RESPONDENTS

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 827 days in filing S.A.S.R.(MD).No.32743 of 2016 against A.S.No.48 of 2012 on the file of the Sub Court, Paramakudi dated 13.12.2013 and thus render justice.

PRAYER IN SA(MD) SR.No.32743/2016:

Pleased to call for the records pertaining to the Judgment and Decree passed by the Sub Court, Paramakudi in A.S.No.48 of 2012 dated 13.12.2013 confirming the Judgment and Decree passed by the District Munsif, Paramakudi in O.S.No.23 of 2010 dated 31.01.2012.

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.N.TAMILMANI, Advocate for the petitioner and of Mr.PT.S.NARENDRAVASAN, Advocate on behalf of the Respondents, the court made the following order:-

This Application has been filed to condone the delay of 827 days in filing the Second Appeal.

2. The petitioner is the plaintiff in the suit. The suit was filed for redemption of alleged mortgage. The suit was dismissed by the Trial Court, which was also confirmed by the lower Appellate Court. The petitioner has challenged the concurrent findings of the Courts below in this Second Appeal. However, the Second Appeal has been filed with a delay of 827 days. The petitioner has stated medical reasons for not filing the Second Appeal on time. The



respondents have also filed their counter affidavit in this delay Application denying the contentions of the petitioner / appellant. They have categorically stated that the reasons given by the petitioner for seeking condonation of the delay of 827 days are bogus reasons and cannot be accepted by this Court.

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3. On the last hearing date, this Court had directed the petitioner's counsel to produce the medical records pertaining to the treatment the petitioner had taken, which according to him resulted in the delay in filing this Second Appeal.

4. The learned counsel appearing for the petitioner has produced medical records as directed by this Court and as seen from the medical records, the petitioner seems to have taken treatment for Jaundice. However, the Medical Certificate is dated 30.04.2023. The Medical Certificate has enclosed Test Reports pertaining to the petitioner's treatment which are of the dates between the years 2014-16.

5. Though the affidavit filed in support of this Application seeking to condone the delay of 827 days does not give the full particulars of the medical treatment underwent by the petitioner, the medical records which are placed before this Court reveals that the petitioner has taken medical treatment for the period from 2014-16. Though the respondents may vehemently oppose the condonation of delay of 872 days as seen from their counter affidavit filed before this Court, this Court is inclined to allow this condone delay Application by putting the petitioner on terms as he has placed before this Court medical records to substantiate his claim that only due to his illness and on account of his medical treatment, he was unable to file the Second Appeal on time. Being an inordinate delay of 872 days in filing the Second Appeal, the petitioner is directed to pay cost of Rs.5,000/- (Rupees Five Thousand only) to the respondents or their counsel within a period of one week from the date of receipt of a copy of this order.

6. Accordingly, this petition is allowed on condition that the petitioner pays respondents or their counsel cost of Rs.5,000/- (Rupees Five Thousand only) within a period of one week from the date of receipt of a copy of this order. On production of proof for having made the payment as stipulated *supra*, the Registry shall number the Second Appeal if it is otherwise in order and list the same for admission on 22.06.2023.

sd/-

08/06/2023

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/06/2023

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



MBI
TO

1 THE SUBORDINATE JUDGE,
PARAMAKUDI.

2 THE DISTRICT MUNSIF,
PARAMAKUDI.

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.11732 of 2022 IN
SA(MD) SR.No.32743 of 2016
Date :08/06/2023

SA/CG/SAR. /13.06.2023/3P/5C