



CMP(MD) No.9959 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)
Thursday, the Fifth day of October Two Thousand and Twenty Three
PRESENT
The Hon`ble Mr.Justice G.CHANDRASEKHARAN
CMP(MD) No.9959 of 2023
in
SA(MD) SR.No.59084 of 2023

1 P.MANOCHARAN
2 SARASWAHI

... PETITIONERS/ APPELLANTS

Vs

1 SATHYA
(*)2 P.MADHAN

... RESPONDENTS/RESPONDENTS

(*)(2ND RESPONDENT IS DECLARED AS MAJOR
AND THE GUARDIANSHIP OF HIS MOTHER R1-
SATHYA IS DISCHARGED VIDE COURT ORDER
DATED 15/09/2023 MADE IN CMP(MD)NO.12284 OF
2023 IN SA(MD)SR.No.59084 of 2023 BY PVMJ)

Civil Miscelllaneous 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 461 days in filing the above second appeal against the judgment and decree passed in AS No.18 of 2017 on the file of the Principal District Judge, Trichy, dated 08.11.2018 confirming the judgment and decree made in OS No.52 of 2016 on the file of the Subordinate Judge, Thuraiyur, dated 26.04.2017.

Prayer in SA(MD) SR.No.59084 of 2023 :

To set aside the judgment and decree made in A.S.No.18 of 2017 on the file of the Principal District Judge, Trichy dated 08.11.2018 confirming the judgment and decree made in O.S.No.52 of 2016 on the file of the Subordinate Judge, Thuraiyur, dated 26.04.2017.

ORDER : This Civil Miscelllaneous petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the



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arguments of M/S.T.LENIN KUMAR, Advocate for the petitioner and of MR.H.LAKSHMI SHANKAR, Advocate on behalf of the Respondent Nos.1 & 2, the court made the following order:-

This Civil Miscellaneous Petition is filed to condone the delay of 461 days in filing the above Second Appeal as against the judgment and decree made in A.S.No.18 of 2017, dated 8.11.2018, on the file of the Principal District Judge, Trichy, confirming the judgment and decree made in O.S.No.52 of 2016, dated 26.4.2017, on the file of Subordinate Judge, Thuraiyur.

2.The learned counsel for the Petitioners submitted that the second petitioner is aged about 75 years old. The first Petitioner had sold the suit property to third parties in the year 2010. Thereafter, he did not show any interest in prosecuting the suit. Due to intervention of Covid-19 pandemic situation, there is a delay of 461 days in filing the above Second Appeal.

3.In reply to the above said submission, the learned counsel for the respondents submitted that it is a concurrent finding by the Courts below in a suit filed for partition and for maintenance. The Courts below has directed the Petitioners to pay a sum of Rs.12,000/- p.a to the first Petitioner by the first defendant and also granted partition of 1/4th share in the suit property. Till date, the Petitioners, especially, the first Petitioner has not paid even a single paise towards maintenance amount. Thus, he strongly opposes the condonation of delay in filing the Second Appeal.



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4. In the circumstances stated by the learned counsel for the parties, this Court is of the view that the delay of 461 days in filing the Second Appeal can be condoned subject to the payment of Rs.1 lakh to the first respondent by the first Petitioner on or before 20.10.2023.

5. Post the matter under the caption "for reporting compliance" on 30.10.2023.

sd/-

05/10/2023

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/10/2023

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

vsn

TO

1 THE PRINCIPAL DISTRICT JUDGE, TRICHY.

2 THE SUBORDINATE JUDGE, THURAIYUR.

+1 CC to M/s.H.LAKSHMI SHANKAR, Advocate (SR-14675[I] dated 05/10/2023)

+1 CC to M/s.T.LENINKUMAR, Advocate (SR-14719[I] dated 06/10/2023)

ORDER IN

CMP(MD) No.9959 of 2023 in

SA(MD) SR.No.59084 of 2023

Date :05/10/2023

RS/DD/SAR-(09.10.2023) 3P 5C

Madurai Bench of Madras High Court is issuing
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