

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Civil Appellate Jurisdiction****Thursday, the Sixth day of July Two Thousand and Twenty Three
PRESENT****The Hon`ble Mr.Justice P.VELMURUGAN****CMP(MD) . No.1483 of 2023****in****SA No.152 of 2003**

1. S.Vellaichamy Ambalam (Died)

2.V.Subbiah ... Petitioner/Proposed Petitioner/
Proposed Petitioner/Proposed Appellant

Vs

1 Chinna Ambalam

2 Sonai Muni Ambalam

3 Maharajan

4 Indrani

5 B.Selvi

6 V.Murugan

7 Ramalakshmi

8 Devathi ... Respondents 3 TO 8/
Proposed Respondents 3 to 8 /
Proposed Respondents 3 to 8/
Proposed Respondents 3 to 8**Prayer in CMP(MD) . No.1483 of 2023**

Civil Miscellaneous Petition filed under order 41 Rule 19 of CPC To condone the delay of 1476 days in filing the present to restore MP.(MD).No.3/2010 in MP.(MD).SR.No.14624/2009 in S.A.No.152/2003 and pass such further orders and thus render justice.

Prayer in SA No.152 of 2003

This Second Appeal is filed under Section 100 of the Code of Civil Procedure, 1908 against the Judgment and Decree of the Court of the Additional District Judge, Dindigul dated 29.12.2000 passed in A.S.No.59 of 1997 confirming the Judgment and Decree of the Court of the First Additional District Munsif, Dindigul dated 09.12.1996 passed in O.S. No.1222 of 1992

ORDER:- This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and



upon hearing the arguments of Mr.S.Ramsundarvijayraj Advc or the Petitioner and of Mr.P.Thirunavukarasan Advocate for the 2nd Respondent, this Court made the following order:

This application is filed to condone the delay of 1476 days in filing the petition to restore M.P(MD)No.3 of 2010, which was dismissed by this Court on 08.11.2016.

2.The second appeal was filed in the year 2003. Upto the year 2008, the said second appeal was pending without any progress. When the second appeal was taken up hearing on 02.09.2008, the did not turned up, therefore, the second appeal was dismissed. Thereafter, the petitioner filed a petition to restore the second appeal and set aside the dismissal order dated 02.09.2008 with delay of 196 days. That petition was listed on 08.11.2016, on that day there was no representation for the petitioner, hence, the petition was dismissed for default. Thereafter, the petitioner filed the present petition to restore M.P(MD)No.3 of 2010 with the delay of 1476 days.

3. It is seen from the records that from the year 2008 the petitioner not properly followed the appeal. One way or other, all the petitions are filed with some delay, which shows that there is a delay of 15 years from the date of dismissal of the second appeal. This clearly shows that the counsel on record for the petitioner/appellant has not properly advised the parties.

4. The learned counsel appearing for the second respondent present and he filed the counter.

5. Though the reasons stated in the accompanying affidavit filed in support of the Petition are not satisfied, however, in order to give an opportunity to the appellant to prosecute the appeal, the delay of 1476 days is condoned on condition that the petitioners shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) towards costs before the Registry to the credit of C.M.P(MD) No.1483 of 2023, within 15 days, provided, on or before **21.07.2023** and on deposit of the same, the petition shall stand allowed, failing which, the Petition shall stand automatically dismissed without further reference to this Court.

6. List the matter on **25.07.2023** for filing compliance report.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/07/2023

Sub Assistant Registrar(CS)



TO

1. The Additional District Judge,
Dindigul.

2. I Additional District Munsif,
Dindigul

Copy to:

1. The Registrar (Judicial)
Madurai Bench of Madras High Court,
Madurai.
2. The Sub- Assistant Registrar
A.E Section,
Madurai Bench of Madras High Court,
3. The Section Officer,
Accounts Section,
Madurai Bench of Madras High Court, Madurai
4. The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court, Madurai

+ CC TO Mr.S.Ramsundarvijayraj Advocate (SR No.10317/2023)

ORDER DATED : 06/07/2023

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ORDER

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CMP(MD) . No.1483 of 2023

in

SA No.152 of 2003

Giving direction and etc.
as stated within.

RD(11/07/2023) 3P 8C