



C.M.P. No.7439 of 2024
in Appeal (CAD) SR. No.8599 of 2024

**C.M.P. No.7439 of 2024
in Appeal (CAD) SR. No.8599 of 2024**

**M.SUNDAR,J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,**

(Order of the Court was made by M.SUNDAR, J.)

When the captioned matter was listed in the previous listings on 02.04.2024 and 10.04.2024, the following proceedings/orders were made:

Proceedings/order dated 02.04.2024:

'C.M.P.No.7439 of 2024
in Appeal(CAD)SR.No.8599 of 2024
(Filing Number)

M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

[Order of this Court was made by M.SUNDAR,J.,]

Captioned 'Civil Miscellaneous Petition' [hereinafter 'CMP' for the sake of brevity, convenience and clarity] has been filed with a 'Condonation of Delay' [hereinafter 'CoD' for the sake of convenience and clarity] prayer. CoD prayer is qua delay in filing Appeal being Appeal(CAD)SR.No.8599 of 2024.

2. Mr.A.Swaminathan, learned counsel on record for petitioner / appellant draws our attention to paragraph No.15 of the support affidavit and submits that articulation



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therein is the reason for delay.

3. Issue notice to respondents. To be noted, number of days qua delay is mentioned as 136 days in the petition but it is averred that it is 146 days in paragraph No.15 of the support affidavit. It is intriguing as to how the captioned CMP was cleared by the Registry. This aspect will be gone into as the matter progresses and notice is being issued subject to this caveat.

4. Mr.S.Conscious Ilango, learned counsel, who has lodged caveat on behalf of R1 and who is in Court, accepts notice for R1 and learned counsel submits that he would accept notice for R2 also.

5. Learned counsel for respondents requests for a short accommodation to acquaint himself with the matter and revert to this Court. Request acceded to.

6. List one week hence. List on 10.04.2024.'

Proceedings/order dated 10.04.2024:

'C.M.P. No.7439 of 2024
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M.SUNDAR,J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

(Order of the Court was made by M.SUNDAR, J.)

When the matter was taken up, Mr.A.Swaminathan, learned counsel on record for petitioner submits that he has not seen the earlier proceedings made in the previous listing on 02.04.2024 though the same has been duly uploaded in the official website of this Court.



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2. Learned counsel faced with the above situation requests for time to peruse the same and come before this Court. Request acceded to.

3. List a fortnight hence. List on 24.04.2024.'

2. Today, Ms.S.Yogalakshmi, learned counsel representing the counsel on record for petitioner in the captioned CMP and Mr.S.Conscious Ilango, learned counsel for respondents in the captioned CMP are before us.

3. Paragraph 15 of the support affidavit articulates the reason for delay and the same reads as follows:

'15. I humbly state that in the meantime there occurred a delay in filing the above Appeal, due to the above said bonafide reasons, there is a delay of 146 days in filing the appeal. The delay is neither willful nor wanton but for the reasons setout above the Appeal would have been filed in time. If the delay in filing the above Appeal is not condoned, the Appellant will be put irretrievable loss and much hardship on the other hand no prejudice will be caused to the respondents who had malafidely changed their tradename and malafidely copied the tradedress of the Appellant.'

4. Learned counsel for respondents submits that the petitioner ought to have been more diligent.



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5. Considering the facts and circumstances of the case and the manner in which the parties are circumstanced, we deem it appropriate to accede to the CoD prayer. Before we do it, advertent to our earlier proceedings dated 02.04.2024, we deem it appropriate to say that the Registry needs to be a little more careful in the days to come in matters of this nature. Likewise, it would be desirable for the counsel also to acquaint themselves with the previous proceedings.

6. In the light of the narrative thus far, captioned CMP is ordered as prayed for i.e., allowed. There shall be no order as to costs.

(M.S.J.) (K.G.T.J.)
24.04.2024

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**M.SUNDAR,J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,**



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24.04.2024