



C.M.P. No.26947 of 2023
in O.S.A. (CAD) SR. No.101441 of 2021

C.M.P. No.26947 of 2023
in O.S.A. (CAD) SR. No.101441 of 2021

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

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

Captioned 'Civil Miscellaneous Petition' (hereinafter 'CMP' for the sake of brevity) has been filed with a 'Condonation of Delay' (CoD) prayer qua 1371 days delay in filing the captioned appeal being O.S.A. (CAD) SR. No.101441 of 2021.

2. Mr.S.S.Rajesh, learned counsel on record for the CMP petitioner drew our attention to paragraphs 4 and 5 of the support affidavit which read as follows:

'4. I submit that, in the meanwhile, the above Appeal was returned on 17.11.2021. We had represented the same on 26.09.2021. It was subsequently returned for complying with certain defects on 26.01.2022 and the same was represented on 31.01.2022. Thereafter, the Registry had returned the Appeal on 04.04.2022 for filing of the aforesaid judgment and decree. As stated supra, I had obtained the certified copies on 24.08.2022, but however, due to certain personal reasons, I was unable to contact my advocate and instruct regarding further proceeding with the case. I had subsequently represented the same on 02.02.2023. There is delay of



*C.M.P. No.26947 of 2023
in O.S.A. (CAD) SR. No.101441 of 2021*

1371 days in filing the above Appeal since the date of delay is reckoned from the date of filing of certified copy of the impugned judgment and decree. Further, there is a delay of 294 days in representing the Appeal.

5. I submit that though we have filed the Appeal as early as on 09.11.2021, due to passage of time the Registry requested us to produce the certified copy of the judgment and decree instead of the web copy of the judgment on 23.10.2019. The appellants have been making all efforts to comply with the directions of the Registry in obtaining the certified copy of the judgment and decree.'

3. Adverting to aforementioned paragraphs, learned counsel submits that the delay is neither wilful nor wanton.

4. Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 18.07.2024 which reads as follows:

**' C.M.P. No.26947 of 2023
in O.S.A. (CAD) SR.No.101441 of 2021**

M.SUNDAR,J.,

and

K.GOVINDARAJAN THILAKAVADI, J.,

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

*Ms.Swathi E, learned counsel representing
Mr.S.S.Rajesh, counsel on record for CMP petitioners is before*



WEB COPY



C.M.P. No.26947 of 2023
in O.S.A. (CAD) SR. No.101441 of 2021

us.

2. Cause list shows that notice to R1 has been returned with an endorsement 'No such person'.

3. Learned counsel representing the counsel on record for petitioners submits that there appears to be difficulty in effecting service on the unserved respondent through conventional modes.

4. List this matter before Joint Registrar (Appellate Side) on 25.07.2024.

5. Learned counsel for petitioners to take steps to effect service on the unserved respondent by resorting to substituted service before Joint Registrar (Appellate Side).

6. Let the aforementioned exercise be completed within six weeks therefrom i.e., by 05.09.2024.

7. Let Joint Registrar (Appellate Side) make a PBC (Post Before Court) order after service is duly effected on the unserved respondent otherwise Joint Registrar (Appellate Side) to put up a suitable note.

8. List before this Court on 12.09.2024.'

5. Thereafter, both the respondents have been duly served and their names and addresses are duly printed in the cause list. We are informed by the Registry that no counsel has entered appearance for respondents. Names of respondents called out. There is no representation either in physical Court or on VC (video conferencing) platform (to be noted, this is a hybrid hearing, which is a regular/routine/daily feature in this Court).



*C.M.P. No.26947 of 2023
in O.S.A. (CAD) SR. No.101441 of 2021*

WEB COPY

6. Considering the facts and circumstances, nature of the matter and the trajectory the matter has taken, we accept the reasons for delay but condonation will be subject to payment of costs. Condonation will be subject to payment of Rs.10,000/- each by all the petitioners i.e., Rs.20,000/- in all in favour of Blue Cross of India, No.72, Velachery Road, Guindy, Chennai -32 either through online mode or directly within three weeks from today i.e., by 17.10.2024. If the costs are not paid, the CMP will stand dismissed without reference to this Court.

7. Captioned CMP is ordered in the aforesaid manner.

(M.S.J.) (K.G.T.J.)
26.09.2024

mmi

P.S. I: Upload forthwith

P.S. II: Though the captioned CMP is disposed of, list the captioned CMP under the cause list caption 'FOR REPORTING COMPLIANCE' on 24.10.2024.



WEB COPY



*C.M.P. No.26947 of 2023
in O.S.A. (CAD) SR. No.101441 of 2021*

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

mmi

**C.M.P. No.26947 of 2023
in O.S.A. (CAD) SR. No.101441 of 2021**

26.09.2024