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CMP.No.5680 of 2024

C.M.P.No.5680 of 2024
in
S.A.SR.No.89773 of 2023

N.MALA,J.

This petition is filed to condone the delay of 1456 days in filing the above
Second Appeal.

2. The 4th defendant in the suit is the appellant in the Second Appeal. The respondents who appeared through their counsel on notice filed a counter objecting to the petition.

3. I have gone through the affidavit and I find absolutely no justifiable reasons for condoning the inordinate delay of 1456 days.

4. As rightly pointed out by the learned counsel for the respondents, even as per the averments in the affidavit in support of the petition, the certified copies of the judgment and decree of the lower appellate court were made ready on 08.12.2022, but there is no explanation for the delay of 3 months in filing the Second Appeal on 07.03.2024.



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5. From the averments in the affidavit, it is clear that the petitioner has not acted diligently and further he remained inactive. It is trite that the party approaching the court belatedly should establish sufficient cause for the delay. From the affidavit of the petitioner, I find that no sufficient cause for the inordinate delay of 1456 days in filing the Second Appeal.

6. The learned counsel for the petitioner submitted that the petition may be allowed on terms. The said submission cannot be countenanced, in view of the Judgment of the Hon'ble Supreme Court in the case of *Basawaraj and another vs. Special Land Acquisition Officer* reported in 2013 (14) SCC 81, the Hon'ble Supreme Court in para '15' has held as follows:

“15.....No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay.....”

For all the above reasons, I find no merit in the petition and same deserves to be dismissed. Accordingly, this CMP is dismissed. Consequently the second appeal stands dismissed at SR stage.



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18.07.2024

N.MALA,J.

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