



WEB COPY



C.M.P.No.24732 of 2023
IN O.S.A.SR.No.130559 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

CORAM

THE HON'BLE Mr. JUSTICE S.S.SUNDAR
AND
THE HON'BLE Mr. JUSTICE P.DHANABAL

C.M.P.No.24732 of 2023
IN
O.S.A.SR.No.130559 of 2023

K.P.Elumalai (deceased)

1.G.Kannamal

2.Manga

3.Vidhya

4.Magesh

.. Petitioner

Vs.

1.P.Jayaraman

2.J.Anbarasu

3.J.Deenadayalan

4.J.Balanchandran

5.S.Pathipooranammal

6.Kullayi @ Pushpa

7.A.VenkatRao

8.A.Alamelu



C.M.P.No.24732 of 2023
IN O.S.A.SR.No.130559 of 2023

9.Vimala

10.Neeraja

11.Nandini

12.Naveen

13.AL.Alagappan

14.N.Sahul Hameed

.. Respondents

Civil Miscellaneous Petition filed under Order XIV Rule 8 of Original Side Rules r/w Section 5 of Limitation Act, praying to condone the delay of 55 days in filing the above appeal.

For Petitioner : Mr.P.Radha Krishnan

For RR 1 to 4, : No appearance
6, 8 to 13

For RR5 & 7 : Died

For R14 : Mr.P.V.Murlidhar

ORDER

(Made by S.S.SUNDAR, J.)

This petition is filed to condone the delay of 55 days in filing the above appeal preferred against the order dated 28.04.2023 passed by the learned Single Judge in A.No.505 of 2015 in C.S.No.502 of 2008.

2. The above appeal is directed against the order of the learned Single Judge dismissing the application to implead the petitioners as party to the proceedings in C.S.No.502 of 2008.



C.M.P.No.24732 of 2023
IN O.S.A.SR.No.130559 of 2023

WEB COPY

3. It is seen that the petitioners have not taken steps to implead the legal heirs of the deceased respondents 5 and 7. As regards some of the respondents, the petitioners have filed affidavit of proof to show that notice has been served by paper publication.

4. The learned counsel for the petitioners submitted that though respondents 5 and 7 are dead, their legal heirs were not impleaded in the suit and therefore, he need not implead them as parties. The learned counsel further submitted that notice is not necessary, as respondents 5 and 7 remained *ex parte*. Having regard to the limited scope of the appeal, this Court proceed to hear this application on merits.

5. Though the petitioners have given reasons for the delay, the learned counsel appearing for the contesting respondent/R14 submitted that the explanation cannot be accepted. In the affidavit, the 4th petitioner has stated that due to his mother's ill health and treatment, he was unable to file the appeal papers in time.



C.M.P.No.24732 of 2023
IN O.S.A.SR.No.130559 of 2023

WEB COPY

6. Though the learned counsel for the respondents submitted that the reasons cannot be accepted, this Court cannot discard the reasons, especially, the delay is only 55 days. This delay could have been avoided by showing due diligence by the petitioners. Therefore, this Court is inclined to allow this petition, on terms.

7. Accordingly, this petition is ordered and the delay is condoned on condition that the petitioner pays a sum of Rs.5,000/- (Rupees Five Thousand only) to the learned counsel appearing for the 14th respondent, either in cash or by demand draft, within a period of two weeks from the date of receipt of a copy of this order.

8. Upon filing a memo by the learned counsel for the petitioners, Registry is directed to number the original side appeal, if the papers are otherwise in order and post the same 'for admission'.

[S.S.S.R.,J.] [P.D.B., J.]

02.12.2024

gya



WEB COPY



C.M.P.No.24732 of 2023
IN O.S.A.SR.No.130559 of 2023



WEB COPY



C.M.P.No.24732 of 2023
IN O.S.A.SR.No.130559 of 2023

S.S.SUNDAR, J.
AND
P.DHANABAL, J.

gya

C.M.P.Nos.24732 of 2023

IN
O.S.A.SR.No.130559 of 2023

02.12.2024