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C.M.P.No.26805 of 2023
in O.S.A.SR.No.123557 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

C.M.P.No.26805 of 2023

in

O.S.A.SR.No.123557 of 2023

News Nation Network Private Limited
Represented by Senior Editor Punith Sarkar
(News Nation Channel)
Plot No.14, Sector 126,
Noida, Uttar Pradesh – 201 301.

... Petitioner

Vs.

1.Mahendra Singh Dhoni

2.Zee Media Corporation Limited,
(Zee News Corporation)
Essel Studio, FC-19, Sector 16A,
Noida, Uttar Pradesh – 201 301
also at :
Alpha Centre, Essel House,
3rd Floor, No.150 & 151,
North Usman Road, T.Nagar,

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Chennai, Tamil Nadu – 600 017.

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3.Sudhir Chaudhary

4.G.Sampath Kumar, IPS
C/o. Office of Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai,
Tamil Nadu – 600 004.

... Respondents

Prayer in C.M.P.No.26805 of 2023 : Civil Miscellaneous Petition filed under Section 5 of the Limitation Act to condone the delay of 424 days in filing O.S.A.SR.No.123557 of 2023 against A.No.2714 of 2022 in C.S.No.185 of 2014.

Prayer in O.S.A.SR.No.123557 of 2023 : Original Side Appeal filed under Order XXXVI Rule 1 of Original Side Rules r/w. Clause 15 of Letters Patent against the order dated 15.07.2022 in A.No.2714 of 2022 in C.S.No.185 of 2014 on the file of this Court.

For Appellant	:	Mr.Aman Jha
For R1	:	Mr.Anupam Raghuraman
For R2	:	Mr.T.V.Balaji Srinivas for M/s.King & Partridge
For R3 & R4	:	No appearance



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ORDER

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

This Civil Miscellaneous Petition is filed to condone the delay of 424 days in filing the above Original Side Appeal.

2.From the reading of the affidavit, this Court finds that the main appeal is directed against the order of the learned Single Judge made in A.No.2714 of 2022 in C.S.No.185 of 2014, which was filed by the 1st respondent/plaintiff to deliver the interrogatories annexed to the application, to the petitioner herein who is the 4th respondent in the application, to answer and to issue Sub-poena to the petitioner/4th defendant in the suit.

3.The application was allowed after recording the fact that the 4th respondent therein, the petitioner herein, has no objection in allowing the application. As against this order, the petitioner appears to have filed a review, which is appropriate, as the only contention to challenge the order



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of the learned Single Judge in A.No.2714 of 2022 is that the petitioner did not concede to allow the application. However, the pendency of review application and the various attempts made by the petitioner to pursue the review application have been cited as reasons for delay in the affidavit filed in support of this petition. The petitioner cannot have parallel remedies, since the petitioner's review application is pending. This Court is of the view that the review alone is the appropriate remedy for the petitioner, as they challenge the recording of the learned Single Judge about what had happened before the learned Single Judge while allowing the application. The appeal itself is not necessary. Further, an appeal against order passed by consent is not maintainable. The petitioner cannot cite the pendency of review application and the time the petitioner had spent in pursuing the review application earlier, as reason to condone the delay. In order to avoid further delay and in the interest of justice, this petition is dismissed.

4.Since the facts reveal that the petitioner has already filed a review application which is the appropriate remedy available to the petitioner and



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the same is not yet disposed, this Court finds no reason to entertain this application to condone the delay. Accordingly, this Civil Miscellaneous Petition is dismissed. However, liberty is preserved to the petitioner to prosecute the review which they have filed as against the order impugned in the unnumbered appeal. It is made clear that we do not express any opinion on the issue whether or not there was consent by the learned counsel for the petitioner before the learned Single Judge to allow the application. Consequently, O.S.A.SR.No.123557 of 2023 stands rejected.

(S.S.S.R., J.) (K.R.S., J.)
07.08.2024

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Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No



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