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C.M.P.No.14855 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 28.03.2024	Delivered on .2024
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CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.P.No.14855 of 2023

in

A.S.Sr.No.146838 of 2022

S.Sudhakar

...Petitioner

Vs.

1.Reliance Kraft (India) Pvt. Ltd.,
Rep. by its Managing Director,
Having its registered Office at
Block No.64, Flat No.5,
Platinum Apartments,
Anna Nagar West Extension,
Chennai - 600 101.

2.K.Kaja Mohideen

3.S.Ravi

...Respondents

Prayer: Civil Miscellaneous Petition filed under Order XLI, Rule 3A(1) of C.P.C., seeking to condone the delay of 210 days in filing the above First Appeal against the judgment and decree dated 24.01.2020 made in O.S.No.247 of 2008 on the file of the IV-Additional District Judge, Thiruvallur @ Ponneri, Thiruvallur District.



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For Petitioner : Mr.P.M.Duraiswamy

For Respondents : Mr.V.Arun for R2

Mr.N.R.Anantha Rama Krishnan

for R1

R3 - No Appearance

ORDER

This Civil Miscellaneous Petition has been filed seeking to condone the delay of 210 days in filing the first appeal against the judgment and decree dated 24.01.2020 made in O.S.No.247 of 2008.

2.The petitioner herein is the 1st defendant in the suit. The 1st respondent herein filed a suit for declaration of title and consequential relief of permanent injunction with other connected reliefs. The 2nd defendant / 2nd respondent is added as a party. The 3rd respondent is only a formal party. There is a delay of 210 days.

3.As per the averment in the affidavit, the judgment was delivered on 27.01.2010, copies of the judgment are made ready on 29.09.2020 and delivered to by the Trial Court counsel on 07.10.2010. It is stated in the



affidavit that the petitioner's mother suffering from cancer and she was under medical treatment and bedridden for the last two years and hence, he was looking after as the other siblings are Government servants working outside the city of Hyderabad, due to which, he was not able to engage a counsel at Chennai to present the appeal and hence, the delay.

4.The learned counsel for the 2nd respondent herein, Mr.V.Arun would state that the 1st respondent herein is the plaintiff in O.S.No.247 of 2008, suit filed for declaration of title and setting aside the sale deed in favour of the 1st defendant. As against the very same judgment, the 2nd defendant has filed an appeal in A.S.No.896 of 2020. The learned counsel for the 1st respondent herein would state that there is an enormous delay of 210 days in filing the present appeal.

5.After hearing both the parties and persual of the lower Court order, I find that the 1st respondent is the plaintiff in O.S.No.247 of 2008 before the IV-Additional District Judge, Tiruvallur at Ponneri. The suit is for declaration to declare the sale deed, Ex.A5 dated 29.09.2008 as null and void. The suit was instituted by the Company represented by its Managing



Director, the 1st defendant as one of the Director and the 3rd defendant is the another Director. The 2nd defendant is a purchaser under the sale deed.

After trial, the suit was decreed and hence, the 2nd defendant has preferred A.S.No.896 of 2020 and the same was admitted by this Court and lower Court records are also taken up and the matter was posted for final disposal of the said A.S.No.896 of 2020. That was at the instance of the 2nd defendant. Now that the 1st defendant has preferred this appeal with delay of 210 days, the other defendant filed an appeal in time and numbered as A.S.No.896 of 2020 which is ready for final disposal. At this juncture, it was brought to notice of the respective Advocate about the pendency of this Civil Miscellaneous Petition. Hence, the case was posted on 05.03.2024 for consideration of the Civil Miscellaneous Petition.

6.Since one of the defendant has already filed an appeal against the very same judgment which is numbered as A.S.No.896 of 2020 and the same is ready for arguments and the present appeal, being instituted by the another defendant namely, the 1st defendant and hence, in the interest of justice, this Civil Miscellaneous Petition is allowed. It remains to be stated that the reasons for delay of 210 days has been properly explained that the



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mother of the petitioner herein was suffering from Cancer and medical documents have also been filed in the type set and hence, I find that the reasons stated by the petitioner herein are sufficient enough to condone the delay. Accordingly, this Civil Miscellaneous Petition is allowed.

7.Registry is directed to number the Appeal Suit and post the same along with A.S.No.896 of 2020 which is ready for final hearing before the roaster Court.

.2024

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Internet:Yes/No

Index:Yes/No

Speaking/Non-speaking order

Nuetral Citation :Yes/No

To:-

The IV-Additional District Judge,
Thiruvallur @ Ponneri,
Thiruvallur District.



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RMT.TEEKAA RAMAN, J.

KKN

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