



C.M.P.No.28852 of 2023
in C.M.A (SR) No.159735 of 2023

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(Filing Number)

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

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

Captioned 'Civil Miscellaneous Petition' ['CMP' for the sake of brevity] has been filed with a 'Condonation of Delay' ['CoD' for the sake of brevity] prayer qua 257 days delay in preferring captioned Civil Miscellaneous Appeal, which is a statutory appeal under Section 19 of the 'Family Court Act, 1984 (66 of 1984)' [hereinafter 'FC Act' for the sake of brevity, convenience and clarity].

2. Mr.S. Srinivasan, learned counsel for petitioner/appellant drew our attention to portions of Paragraphs 4 and 5 of the support affidavit, which read as follows;

'4.....My aged mother is suffering from asthma and often fell ill and I am the only person to take care of her. Further, I am the only person to take care of her. Further, I am doing coolie work and I was financially incapable, to prepare the appeal in



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time. Therefore, I could able to file copy application only on 14.09.2023 for getting the papers and it was made ready on 25.09.2023 and delivered on 29.09.2023 and it was informed by my lower court counsel. I have approached him in the 2nd week of October 2023 and instructed him to take necessary steps to prepare the appeal before this Hon'ble Court. Hence, he informed to contact him after Dhasara Holidays. Hence, while again I contact him in the 1st week of November, 2023, he told to contact him after Deepavali Holidays. Hence I contacted him in the 3rd week of November, 2023 and after the Michaung Cyclone, now prepared the appeal with a delay of 257 days.

5. I humbly submit that, the delay in preferring this civil miscellaneous appeal is neither willful not wanton, but due to the above said bona-fide reasons....'

3. Learned counsel reiterated the aforesaid reasons in support of CoD prayer.

4. Hon'ble predecessor Bench had ordered notice on 21.12.2023 and the proceedings reads as follows:



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R.SUBRAMANIAN, J.
and
N.SENTHILKUMAR, J.

Notice to the respondents
returnable by 24.01.2024. Private
notice is also permitted.

 
(R.S.M., J.) (N.S., J.)
21.12.2023


Clerk

5. Today, Ms.S.Yogalakshmi, learned counsel representing Mr.M.Guruprasad, who has entered appearance on behalf of lone respondent, is before this Court and learned counsel submits that petitioner should have been diligent.

6. We carefully considered the rival submissions.

7. Considering the facts and circumstances of the case, nature of the matter, the manner in which parties are circumstanced and the trajectory the matter has taken, we deem it appropriate to accede to the prayer.



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gpa

9. The sequitur is, captioned CMP is ordered as prayed for. There shall be no order as to costs.

[M.S.,J.] [K.G.T.,J.]

15.02.2024

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