



CMP(MD) No.13596 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Friday, the First day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mrs.Justice S.SRIMATHY

C.M.P(MD)No.13596 of 2023

in

S.A(MD)SR.No.15353 of 2023

C.PALANISAMY

... PETITIONER/ APPELLANT

Vs

NALLAMMAL (DIED)

NATRAYAN (DIED)

1. KUPPUSAMY

K.RAMASAMY (DIED)

2 K.KARUPPASAMY

3 SELLAMMAL

4 N.RAMASAMY

5 R.KAMALATHAL

6 R.SENTHILKUMAR

7 R.SIVAKUMAR

... RESPONDENTS/RESPONDENTS



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WEB Civil Miscellaneous Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to condone the delay of 2447 days in filing the second appeal against the judgment and decree in A.S.No.36 of 2013 and A.S.No.5 of 2014 on the file of Principal District Judge, Karur and thus render justice.

PRAYER IN S.A(MD)SR.No.15353 of 2023:

To interfere with the judgment and decree dated 01.03.2016 in A.S.No.36 of 2013 and A.S.No.5 of 2014 on the file of Principal District Judge, Karur in confirming and modifying the judgment and decree dated 11.09.2013 made in O.S.No.154 of 2006 on the file of Principal Subordinate Judge, Karur and thus render justice.

ORDER : This Civil Miscellaneous petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.K.GOVINDARAJAN, Advocate for the petitioner and of MR.R.MATHIYALAGAN, Advocate on behalf of the Respondent No.2 and not appeared for the respondents 1,3 to 7 either in person or through by an advocate, the court made the following order:-

This petition is filed to condone the delay of 2447 days in filing the Second Appeal.

2. Tapal sent to R-1 was returned as 'unclaimed'. If it is unclaimed, service is completed through private notice. The other respondents have already received notice. Though the names of the respondents 1, 3 to 7 are printed in the cause list, no one is appeared either in person or their Counsel. The Learned Counsel for the 2nd respondent is present. Therefore, service completed to all the persons.



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3. The 4th respondent, namely; Ramasamy and the plaintiff are joint purchasers. When dispute arises, the 4th respondent has taken care of the litigation. The appellant is under the impression that the 4th respondent effectively contest the litigation. Thereafter, the plaintiff came to know that the litigation was not properly contested. Hence, there was a delay in filing the Second Appeal.

4. Though the Learned Counsel appearing for the 2nd respondent vehemently objected for allowing the petition for condoning the delay, by accepting the reasons stated in the affidavit filed in support of the petition, this Court is inclined to allow this petition on payment of cost of Rs.5,000/- payable to the following organization which is meant for disabled children.

“SAKSHAM”

Swami Sivanandha Sevarshram,

Austin Patti Road, Thopur, Madurai.

Contact Person Sri Govindharaj

Mobile Number: 63740 48342.



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5. On such payment being made, Registry is directed to number the appeal and list it for 'Admission' on 05.03.2024.

sd/-
01/03/2024

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/03/2024

Sub-Assistant Registrar (CS- I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

KSA

TO

1.THE PRINCIPAL DISTRICT JUDGE, KARUR

2.THE PRINCIPAL SUBORDINATE JUDGE, KARUR

COPY TO

1.THE SUB ASSISTANT REGISTRAR(AE),
AE SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

2.MR.SRI GOVINDHARAJ
"SAKSHAM"
SWAMI SIVANANDHA SEVARSHRAM,
AUSTIN PATTI ROAD, THOPUR, MADURAI.
MOBILE NUMBER: 63740 48342.

ORDER
IN
C.M.P(MD)No.13596 of 2023
in
S.A(MD)SR.No.15353 of 2023
Date :01/03/2024



CMP(MD) No.13596 of 2023

RK/GS (04/03/2024) 5P / 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023