



CMP(MD).No.14245 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Civil Appellate Jurisdiction

Thursday, the Twenty Fourth day of October Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CMP(MD).No.14245 of 2024

in

S.A.(MD).No.31 of 2023

Veeraiah, ... Petitioner/ Appellant

Vs

Ayyanar, ... Respondent/ Respondent

Prayer in CMP(MD).No.14245 of 2024 :-

Civil Miscellaneous Petition Under Section 5 of Limitation Act, to Condone the delay of 31 days in filing the second appeal in S.A.(MD).No.31 of 2023 on the file of this Court.

Prayer in S.A.(MD).No.31 of 2023:-

Second Appeal filed under Section 100 of Civil Procedure Code, to set aside the Decree and Judgment passed in A.S. No. 7 of 2020 on the file of the Sub-Court, Aranthangi dated 22.03.2021 confirming the Decree and Judgment passed in O.S. No. 119 of 2006 dated 23.11.2018 on the file of the District Munsif Court, Aranthangi by allowing this second appeal.



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ORDER:- This Civil Miscellaneous Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.R.Paranjothi, Advocate for the Petitioner and of Mr.N.Balakrishnan, Government Advocate for the respondent, this Court made the following order:

“This Civil Miscellaneous Petition is filed to condone the delay of 31 days in filing the application to restore the second appeal in SA(MD) No.31 of 2023.

2.The learned counsel appearing for the petitioner/appellant submits that as against the concurrent findings of the Courts below, this second appeal has been filed in the year 2023 and it has not been admitted. Since there was no representation for the appellant, at the time of admission of the second appeal on 15.11.2023, this second appeal was dismissed for default. Now, the learned counsel for the appellant has filed this application to condone the delay of 31 days in filing the application to restore the second appeal that they have omitted to follow up with the second appeal and the bundle was also misplaced.

3.The learned counsel for the respondent has raised serious objections for allowing this application that the appellant is not having any grounds in the second appeal. However, in order to protract the proceedings and in order to prevent the implementation of the judgment and decree rendered by the Courts



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below, they have filed this application to restore the second appeal.

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4.Considering the rival submissions made and the reasons assigned in the affidavit filed in support of this petition, this Civil Miscellaneous Petition is ordered, on condition that the learned counsel for the appellant must be ready for final disposal of the second appeal at the time of admission itself.”

Sd/-

Assistant Registrar(C.O)

// True Copy //

/11/2024

Sub Assistant Registrar
(CS-I / II / III / IV)

TO

1.The Subordinate Judge,
Aranthangi.

2. The District Munsif,
Aranthangi.

Copy to:
The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court. Madurai.(2 Copies).



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ORDER DATED : 24/10/2024

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ORDER

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in

S.A.(MD).No.31 of 2023

SI -(11.11.2024) 4P/ 5C

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