



C.M.P.(MD)No.10755 of 2023

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

Tuesday, the Twenty Seventh day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mrs.Justice S.SRIMATHY

C.M.P.(MD)No.10755 of 2023

in

S.A.(MD)SR.No.59325 of 2023

VANASUNDARI

... PETITIONER/ APPELLANT

Vs

1 MOKKAPILLAI

2 THAVAMANI

3 ALAGU

4 GURU(DIED)

5 PIDARI

6 SEVUGAN

7 PUSHPAVALLI,

8 PANDISELVI,

9 ARUNPANDI,



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10 AJITH,
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... RESPONDENTS/RESPONDENTS

RESPONDENTS 7 TO 10 ARE BROUGHT ON RECORD AS LRS OF THE DECEASED 4 TH RESPONDENT VIDE COURT ORDER DATED 08.01.2024 MADE IN CMP(MD)NOs.17377, 17379 AND 17381 OF 2023 IN SA(MD)SR.NO.59325 OF 2023

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 2167 days in filing the second appeal in S.A(MD). No.SR.No.59325 of 2023 and thus render justice.

PRAYER IN S.A.(MD)SR.No.59325 of 2023:

To set aside the Judgment and Decreetal order dated 22.10.2016 made in A.S.No.10 of 2016 on the file of the learned 1st Additional District Court, Madurai reversing the judgment and decree dated 22.12.2015 in O.S.No.698 of 2011 on the file of the learned 3rd Additional Sub Court, Madurai and allow this Second Appeal.

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.I.SRIRANGANATHAN, Advocate for the petitioner and of MR.M.VIJAYAKUMAR, Advocate on behalf of the Respondents 2, 3, 5 & 6 the court made the following order:-

The second appeal is preferred with huge delay of 2167 of days.



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2.The reason cited by the petitioner / appellant for the delay is as under:

The judgment and decree of the appeal suit was passed on 22.10.2016 and the copy application was filed on 24.10.2016 which is within a period of three days and therefore, there is no delay in filing the copy application. The judgment and decree was delivered on 07.06.2017 and after receiving the same, the petitioner / appellant had handed over the papers to an Advocate namely Samayavasu. The petitioner / appellant was under the impression that the second appeal would have been filed. Subsequently, it came to the knowledge of the petitioner / appellant that the said Advocate died on 01.09.2020 and he had not filed the second appeal. Thereafter, the petitioner / appellant with earnest effort has traced the papers in office of the Advocate. Subsequently, the papers were handed over to the present Advocate to file the second appeal. Hence, there was huge delay in filing the second appeal.

3.The learned Counsel appearing for respondents 2, 3, 5 and 6 vehemently objected to condone the delay. It is seen that the suit for partition was filed by the respondents / plaintiffs. It is a reversal finding and the plaintiffs have also filed application for final decree and the same is pending.



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4. When the issue between the parties are still pending, this Court is inclined to entertain this petition. Since there is a huge delay, this Civil Miscellaneous Petition is allowed on payment of cost of Rs.7,500/- to the Creche attached to the Madurai Bench of Madras High Court, Madurai.

sd/-
27/02/2024

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/03/2024

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

tmg

TO

1. THE 1ST ADDITIONAL DISTRICT JUDGE, MADURAI
2. THE 3RD ADDITIONAL SUBORDINATE JUDGE, MADURAI

COPY TO

THE OFFICER IN CHARGE,
CRECHE ATTACHED TO THE MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
C.M.P.(MD)No.10755 of 2023
in
S.A.(MD)SR.No.59325 of 2023
Date :27/02/2024



C.M.P.(MD)No.10755 of 2023

RK/GS(01/03/2024) 5P / 4C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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