



CMP.No.12720 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2025

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

CMP.No.12720 of 2024
in AS.SRNo.125469 of 2023

C.Vinayagamoorthy

Petitioner(s)

Vs

A.Vijayarani

Respondent(s)

Prayer in CMP.No.12720 of 2024: Petition filed under Order 41 Rule 3A of CPC read with Section 5 of the Limitation Act seeking to condone the delay of 1786 days in filing the above appeal.

Prayer in Appeal Suit: Appeal filed under Section 96 of Code of Civil Procedure to set aside the judgment and decree dated 28.11.2018 in O.S.No.182 of 2012 on the file of the learned Principal District Court, Villupuram.

For Petitioner : Dr.Mr.T.Mathi

For Respondent : Mr.A.P.Neelamegavannan

ORDER

This petition has been filed seeking to condone the delay of 1786 days in filing the above appeal.

2. The only contention raised by the learned counsel for the petitioner is that for filing appeal, the previous counsel has not applied certified copy from the Trial Court. When he was received notice in the EP stage in the year 2022,



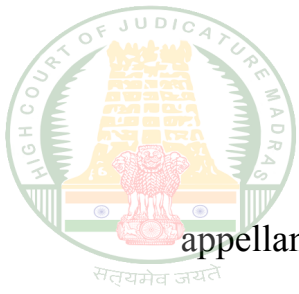
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he has engaged the new counsel and thereafter, the petitioner was bedridden and in the year 2023, he appeared before the Executing Court. Thereafter, again the petitioner changed the counsel and filed the above appeal with a delay of 1786 days. Hence, seeks for condoning delay in filing the appeal.

3. Counter has been filed by the respondent disputing the contentions of the learned counsel for the petitioner that the reasons assigned by the petitioner are sham and nominal. Hence, seeks for dismissal of the petition.

4. Of course, the expression“sufficient cause” should receive a liberal construction so as to advance substantial justice when no negligence or inaction or want of bona fide is imputable to a party. Casually filing the petition to condone the delay in filing without any proper reasons, such huge delay cannot be condoned. A Court granting indulgence must be satisfied that there was diligence on the part of the appellant and that he was not guilty of any negligence whatsoever. Where there is no sufficient cause for condoning the delay, the said delay should not be condoned as it amounts to a case of discretion not being exercised judicially.

5. The only contention is that previous counsel has not applied for certified copy, though the impugned judgment is of the year 2018, the



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appellant ought to have been vigilant in pursuing the matter. If he has pursued the matter vigilantly, if the previous counsel has not applied for certified copy, then the appellant ought to have engaged another lawyer in the year 2018 itself, whereas, he had engaged a counsel in the year 2022, that too after four years. Even after engaging the counsel, he has not immediately come before the Court. All these facts would indicate the callous attitude of the appellant and that cannot be brushed aside altogether. Hence, I do not find any merits to condone such huge delay in filing the appeal.

6. Accordingly, this petition stands dismissed and un-numbered appeal suit stands rejected. No costs.

06.03.2025

Index : Yes/No
Internet : Yes/No
dhk

To,
1.The Principal District Judge
Principal District Court, Villupuram

2.The Section Officer
VR Section,
Madras High Court

N.SATHISH KUMAR, J.

dhk



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