



CMP NO. 5946 of 2024
in
SA.No. 1195 of 2003

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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 14-02-2025
CORAM
THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI
CMP NO. 5946 of 2024
in
SA.No. 1195 of 2003

V.S.Harikumar
S/o. V.S.Suresh Kumar, Old No. 7, New
No.A/17, II Street, Venus Colony, Alwarpet,
Chennai 18

Appellant(s)

Vs

M/s.Amalgamations Ltd.,
202, Anna Salai, Chennai 002 and 7 Others

Respondent(s)

For Appellant(s): S. Parthasarathy, Senior Counsel For P.Dinesh Kumar
For Respondent(s):

ORDER

This petition is filed seeking to condone the delay of 1604 days in filing the application seeking readmission of the appeal in S.A.No.1195 of 2003 which was dismissed for non-prosecution on 02.03.2018.

2.Counsel for the petitioner and the Counsel for respondent Nos. 8 and 9 are present.

3.The learned Counsel for the respondents has relied upon the decision of the Hon'ble Supreme Court in *M.Guruswamy and Others v. A.Krishnaiah since deceased by Lrs.*, reported in *2025 SCC Online SC 54*, wherein, it has been held that the relevant Paragraph No.16 of the order dated 08.01.2025

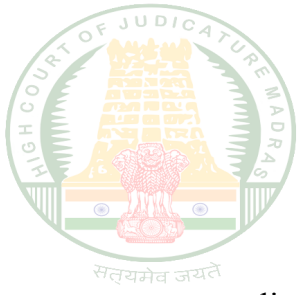


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which reads thus:-

“The length of the delay is definitely a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the respondents herein, it appears that they want to fix their own period of limitation for the purpose of instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the Court must not start with the merits of the main matter. The Court owes a duty to first ascertain the *bona fides* of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the Court may bring into aid the merits of the matter for the purpose of condoning the delay.”

4.By way of reply, the learned Counsel for the petitioner would submit that the petitioner's senior counsel on record died due to COVID-19 and his junior counsel also died in the year 2020-21. Therefore, due to the absence of the learned Counsel for the petitioner, the petitioner was not able to follow the appeal proceedings. Hence, there is a delay of 1604 days in filing the



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application seeking re-admission of the appeal in SA.No.1195 of 2003. However, the above decision submitted by the learned Counsel for the respondents is acceptable one.

5.Considering the aforesaid facts and circumstances of the case, this Court is inclined to allow the petition on condition that the petitioner is directed to pay a sum of **Rs.5,000/- [Rupees Five Thousand Only]** to the respondents 1 & 2 within a period of two weeks from the date of receipt of a copy of this order.

6.This petition is ordered accordingly.

14-02-2025

MSM

Note: Registry is directed to restore the SA.No. 1195 of 2003

which was dismissed for non-prosecution on 02.03.2018 and list the matter on 11.03.2025.



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T.V.THAMILSELVI, J.

MSM

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