



WEB COPY

CMP No. 28317 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-12-2025

CORAM

**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

**C.M.P.No. 28317 of 2023
in
O.S.A.(CAD)Sr.No.151118 of 2023**

DMY Creation SDN.BHD.,
No.9, Gombak Heights,
Taman Sri Gombak,
Batu Caves 68100, Selangor,
Malaysia,
Rep. by its Director
Mr. Aloysius Pillai @ Alex

Camp at:
New No.17/1, First Floor,
Sriram Nagar, South Street,
Alwarpet, Chennai-600 018.

Petitioner

Vs

M/s.LYCA Productions Private Limited.,
No.55, Vijayaraghava Road,
T.Nagar, Chennai-17.
Rep. by its Director

Respondent

PRAYER: This petition has been filed to condone the delay of 450 days in filing the present original side appeal against judgment and decree of this Hon'ble Court in allowing the counter-claims in CS (Comm.Div.) No.735 of 2019.



For Petitioner: Mr.N.Baskar
for Mr. S. Feroz Khan
For Respondent: Mrs.Hema Srinivasan

ORDER

(Order of the Court was made by S.M.Subramaniam J.)

The present Civil Miscellaneous Petition has been instituted to condone the delay of 450 days in filing the Original Side Appeal challenging the judgment and decree dated 17.06.2022 made in C.S.(Commercial Division) No.735 of 2019.

2. The learned counsel for the petitioner would mainly contend that the appeal in counter claim was filed within timeline along with the appeal in C.S. (Comm.Div.) No.735 of 2019 by paying necessary Court fee. Original Side Appeal has been numbered as O.S.A.(CAD.) No.114 of 2022. However, the appellate Court has not discussed nor framed issues relating to counter claim petition. Therefore, they have chosen to file present Original Side Appeal challenging the judgment and decree passed in C.S.(Comm.Div.) No.735 of 2019.

3. The learned counsel for the respondent would oppose by stating that O.S.A.(CAD) No.114 of 2022 preferred by the appellant had been dismissed by this Court on 15.02.2024 and further Special Leave Petition also came to



be dismissed by the Hon'ble Supreme Court of India on 17.05.2024. Now the appellant is attempting to re-adjudicate the issue, which is impermissible.

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4. This Court is of the considered view that the trial Court has decided the suit as well as the counter claim and the common judgment and decree was passed on 07.06.2022. Against the said judgment and decree, the appellant preferred O.S.A.(CAD) No.114 of 2022 and the Division Bench confirmed the decree. Challenging the same, Special Leave Petition in SLP.No.10507 of 2024 was filed and the Apex Court also confirmed the judgment and decree passed by the trial Court as well as the first appellate Court and dismissed the Special Leave Petition on 17.05.2024. Thereafter, the appellant cannot turn around and file Original Side Appeal challenging the very same judgment and decree dated 07.06.2022 passed in C.S.(Comm.Div.) No.735 of 2019.

5. Re-adjudication on merits, at this juncture, would be impermissible, since the said judgment came to be confirmed by the Hon'ble Supreme Court. That apart, the reasons stated for condoning the delay of 450 days is neither candid nor convincing. The appellant was very much aware of the common judgment passed by trial Court both in suit as well as counter claim. That apart, delay being enormous has to be construed as un-condonable and consequently, the Civil Miscellaneous Petition stands **dismissed**. The



Registry is directed to re-fund the admissible Court fee by following the procedures. The O.S.A.(CAD) Sr.No.151118 of 2023 stands rejected in the SR stage. No Costs.

(S.M.SUBRAMANIAM J.) (C.KUMARAPPAN J.)
08-12-2025

dsa

Index :Yes/No
Internet :Yes
Neutral Citation :Yes/No
Speaking/Non-speaking order



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To

LYCA Productions Private Limited
No.55, Vijayaraghava Road, T.Nagar,
Chennai-17 Rep by its Director



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