



CMP(MD) No.1219 of 2024

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

Monday, the Fourteenth day of July Two Thousand and Twenty Five

PRESENT

The HONOURABLE MR. JUSTICE G. ARUL MURUGAN

CMP(MD) No.1219 of 2024

IN

SA(MD) No.682 of 2021

1. Vadivel

S/o. Palani Konar, Panneerselvam Nagar,

Arasarkulam West Village,

Arasarkulam Post - 614 801,

Aranthangi Taluk, Pudukkottai District.

2. Ganesan,

S/o. Ramasamy Konar, Panneerselvam Nagar,

Arasarkulam West Village, Arasarkulam Post - 614 801,

Aranthangi Taluk, Pudukkottai District.

... PETITIONER(S)

Vs

1. Nagarajan,

S/o. Sathaiah, Vallambakkadu Village,

Arasarkulam West Village, Arasarkulam Post - 614 801,

Aranthangi Taluk, Pudukkottai District.

... RESPONDENT(S)



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For Petitioners: Mr.K.Baalasundaram, Senior Counsel
for M/s.KBS Law Office,

For Respondent: Mr.N.Tamilmani, Advocate

ORDER

The Civil Miscellaneous Petition is filed to condone the delay of 215 days in filing a petition to restore S.A.(MD)No.682 of 2021, which was dismissed for non prosecution on 21.04.2023.

2.Heard the learned Senior Counsel for the petitioners/appellants and the learned Counsel for the respondent.

3.The Second Appeal was listed for hearing on 21.04.2023 and since there was no representation on the part of the appellants, the appeal was dismissed for non prosecution. The learned Counsel for the petitioners/appellants has come up with a petition to restore the appeal along with the above miscellaneous petition with a delay of 215 days in filing the restoration petition. It is averred that the first appellant was suffering from jaundice and he became very seriously ill and due to which, he was not able to contact the Counsel immediately to take steps. The learned Senior Counsel appearing for the petitioners/appellants submitted that since in the meantime, the Counsel on record was designated as Senior Counsel and the other Counsel on record name was though printed in the cause list, the same was not



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properly taken note of and due to inadvertence, they have failed to notice and appear before the Court on the date of hearing. The learned Senior Counsel seeks indulgence of this Court to condone the delay and allow the party to contest the appeal on merits.

4.The learned Counsel for the respondent by filing a counter affidavit strongly opposes the delay being condoned. The learned Counsel submitted that the petitioners/appellants have not explained the delay properly and the reasons adduced are not satisfied as per Section 5 of the Limitation Act.

5.Heard the learned Counsel on either side and perused the materials available on record and also the affidavit filed in support of this petition and the counter affidavit filed by the respondent.

6.It is true that the petitioners/appellants have not appeared before the Court on the date of hearing and have also not filed the petition immediately to restore the appeal, but however, had belatedly approached the Court with the delay of 215 days.

7.In view of the reasons stated in the affidavit and also considering the fact that there was a designation in the meantime and the other Counsel on record have failed to notice the names being printed in the cause list and due to which, the matter was allowed to be dismissed for non prosecution, this Court is of the considered opinion that the petition could be allowed by putting the petitioners/appellants on terms and



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allow the petitioners/appellants to contest the appeal on merits.

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8.In view of the above, the delay is condoned and the petition is allowed on condition that the petitioners/appellants pay a sum of Rs.10,000/-, as cost, to the learned Counsel for the respondent within a period of one week from today failing which, the petition will stand automatically dismissed. In the event of paying the cost within the stipulated time and filing the memo to that effect, the petition to restore the appeal will be numbered and listed before this Court.

sd/-

14/07/2025

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/2025

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

cmr
TO

1 THE SUBORDINATE JUDGE, ARANTHANGI.

2 THE DISTRICT MUNSIF, ARANTHANGI.

ORDER

IN

CMP(MD) No.1219 of 2024

IN

SA(MD) No.682 of 2021

Date :14/07/2025



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NBF/SAR- /23/07/2025/ 5P/3C

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