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

Tuesday, the Tenth day of October Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

C.M.P(MD)No.7815 of 2023
in
S.A(MD)SR.No.29546 of 2023

ARANTHANGI MUNICIPALITY
REPRESENTED BY ITS COMMISSIONER,
MUNICIPALITY OFFICE,
ARANTHANGI ... PETITIONER/APPELLANT

Vs

1 NAGOOR GANI

MOHAMMED IBRAHIM (DIED)

2 SABIYA BEGUM

3 MARIYAM BEEVI ... RESPONDENTS/ RESPONDENTS

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 823 days in filing the Second Appeal against AS No.27 of 2018 dated 28.09.2018 on the file of the Sub-Court, Aranthangi and thus render justice.

PRAYER IN S.A(MD)SR.No.29546 of 2023:

To set aside the judgment and decree rendered in A.S.No.27 of 2018 dated 28.09.2018 on the file of Sub-Court, Aranthangi reversing the judgment and decree in O.S.No.133 of 1997 dated 9.3.2010 on the file of District Munsif Court, Aranthangi and allow the Second Appeal.

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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.N.BALAKRISHNAN, Advocate for the petitioner and of MR.R.BALAKRISHNAN, Advocate on behalf of the Respondent nos. 1 to 3, the Court made the following order:-

This Petition is filed to condone the delay of 823 days in filing the above Second Appeal as against the judgment made in A.S.No.27 of 2018, dated 28.09.2018, on the file of Sub-Court, Aranthangi.

2.It is the submission of the learned counsel for the Petitioner/appellant that appeal is filed in O.S.No.133/1997 for the relief of declaration of title and for permanent injunction in respect of the suit property. The suit was decreed on 09.03.2010. The respondents filed an appeal in A.S.No.27 of 2018 and that was allowed by the learned Subordinate Judge, Aranthangi on 28.09.2018.The result of this appeal was not intimated by the then Government Pleader to the Petitioner and thereafter, the Petitioner/appellant came to know about the disposal of the appeal. Only during the month of March, 2023, the appellant came to know about the result in the appeal through the respondents. Then the appellant applied for certified copy of the judgment and decree and filed the appeal and in the meantime, there is a delay of 823 days in filing the above Second Appeal.

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3.The learned counsel for the respondents opposes this Petition on the ground that the delay is huge and the delay is not properly explained.

4.From the rival submissions made on either side and the records produced before this Court and it is clear that the Petitioner had succeeded before the trial Court and lost before the First Appellate Court. The suit is filed for declaration of title and for permanent injunction. Considering the reasons stated in the accompanying affidavit and having satisfied with the same, this Court is of the view that the delay shall be condoned on some terms. Accordingly, this Petition is allowed subject to condition that the Petitioner/appellant pays a sum of Rs.5,000/-(Rupees five thousand only) towards costs directly to the respondents within a period of two weeks from the date of receipt of a copy of this order, failing which, this Petition shall stand automatically dismissed, without further reference to this Court.

sd/-
10/10/2023

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/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSN

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TO

1 The Subordinate Judge, Aranthangi.

2 The District Munsif Court, Aranthangi.

ORDER
IN
CMP(MD) No.7815 of 2023
Date :10/10/2023

SSA/VRS/11.10.2023/4P/3C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023

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