

Petitioner Vs. Respondent

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Court : Chennai Madurai

Decided On : Sep-30-2016

Judge : D. Krishnakumar

Appeal No. : C.M.P(MD)No. 5990 of 2016 in C.M.A(MD)SR.No. 20509 of 2016

Appellant : Petitioner

Respondent : Respondent

Judgement :

1. This Petition is filed to condone the delay of 1257 days in filing the above appeal.
2. Heard both sides and perused the materials on record.
3. The Petitioner has stated in para 4 of the affidavit that he had received notice in E.P.No.1 of 2016 in M.C.O.P.No.223 of 2007 and the same was received on 4.2.2016 and thereafter only came to know about the order passed in M.C.O.P.No.223 of 2007. Since the Petitioner has not given his temporary address at Kerala, the learned counsel for the Petitioner could not contact his client and therefore he was not attending the Court. Thereafter, the learned counsel could not appear before the Court below due to the Petitioner's absence and failure to contact him, which resulted in passing ex-parte award in M.C.O.P.No.223 of 2007. Thereafter he received the copy of the judgement on 19.3.2016 and went to Madurai to contact his counsel for filing appeal, on 23.3.2016. After getting

instructions and mobilizing funds, the Petitioner has filed the present appeal on 29.4.2016. In this regard there is a delay of 1257 days in filing the above appeal. This Court is not satisfied with the above reasons stated by the Petitioner for a huge delay of 1257 days in filing the appeal.

4. On a perusal of the above affidavit, it is seen that there is an inordinate delay in filing the appeal. However, the Petitioner being the owner of the vehicle and is challenging the liability to pay compensation to the claimants and no satisfactory reasons were furnished for the above said delay, this Court considering the facts and circumstances of the case and also the learned counsel for the respondents has no serious objection in allowing this application, but, submitted that in the event of allowing the application, exemplary cost shall be imposed and in the interest of justice, this Court comes to a conclusion that the Petition may be allowed on imposing on exemplary cost to the Petitioner and the same is payable to the respondents.

5. Accordingly, this Petition is allowed and the delay is condoned on condition that the Petitioner pays a sum of Rs.10,000/-(Rupees ten thousand only) to the second respondent directly 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.

6. Post the matter before this Court, after three weeks for reporting compliance.

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