

M.DURAI SWAMY,J.

There is a delay of 402 days in filing the First Appeal in A.S.(SR).No.25221 of 2016.

2.The respondent/plaintiff filed the suit in O.S.No.11 of 2009 on the file of the Principal District Court, Vellore for specific performance.

3.The trial Court decreed the suit on 09.10.2014. Challenging the judgment and decree passed in O.S.No.11 of 2009, the defendant has filed the Appeal with a petition to condone the delay of 402 days in filing the Appeal.

4.In the affidavit filed in support of the petition, the petitioner has stated that she is aged more than 80 years and that her elder son had passed away on 22.11.2014 and subsequently, her younger son had passed away on 02.08.2015. Further, she has stated that in view of the consecutive deaths happened in her family, she could not file the Appeal in time. Further, she has stated that due to her old age and financial constraints, she was not in a position to file the Appeal in time.

5.The respondent filed his counter disputing the averments. However, the respondent has not disputed the deaths of the sons of the petitioner.

6.When the judgment and decree was passed on 09.10.2014 and the petitioner's sons had died on 22.11.2014 and 02.08.2015, the reasoning given by the petitioner should be accepted. That apart, the petitioner is aged more than 80 years, therefore, in the interest of justice, to give an opportunity to the petitioner, the delay can be condoned.

7.The learned counsel for the respondent submitted that the delay can be condoned on payment of costs.

8.In view of the submissions made by the learned counsel on either side, the delay of 402 days in filing the Appeal is condoned on condition the petitioner paying a sum of Rs.2,000/- (Rupees two thousand only) to the respondent within one week from the date of receipt of a copy of this order. It is made clear that the petitioners are at liberty to pay the said amount of Rs.2,000/- to the learned counsel for the respondent before this Court in this petition within the stipulated time.

9.The petition is ordered.