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C.M.P.No. 5922 of 2020

in

S.A. No. 787 of 2018

T.V. THAMILSELVI, J.

This petition has been filed seeking to condone the delay of 22 days in filing the petition to set aside the order dated 06.01.2020 dismissing the Second Appeal for default.

2. Mrs.V.Srimathy, learned counsel for petitioners/proposed appellants submitted that pending appeal, 2nd appellant Elumalai died on 27.11.2014 and there is a delay of 22 days in filing the petition. Hence, she has filed the above petition to condone the delay and to restore the S.A.

3. Mr.S.L.Sudarsanan, learned counsel appearing for 1st respondent appeared and raised his objections stating that 2nd appellant Elumalai was died in the year 2014, but the 1st appellant has not taken steps properly and the reason stated by the 1st appellant for the delay is also not acceptable one. The learned counsel would also submit that the execution proceedings in E.P. No.8 of 2013 is pending before the trial court and due to the pendency of Second Appeal as well as Civil Miscellaneous Petition, he is not able to proceed further.



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4. On considering the nature of claim and also considering the pendency of execution proceedings before the trial court, this Court is inclined to condone the delay with a condition that the learned counsel for petitioner shall pay a cost of Rs.5000/- to the contesting 1st respondent. However, the learned counsel for petitioner has paid the cost to him in the open court itself. Accordingly, this petition is ordered and the Second Appeal is restored.

5. Post the matter on 25.07.2022

11.07.2022

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