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C.M.P.No. 10001 of 2022

in

S.A. No. 706 of 2013

T.V. THAMILSELVI, J.

This petition has been filed seeking to condone the delay of 1443 days in filing the petition to restore the above Second Appeal, which was dismissed for default on 12.04.2018.

2. Mr.N.Suresh, learned counsel for petitioners/appellants submitted that they have filed the Second Appeal on 19.04.2013 and this Court also ordered notice on 03.07.2013. During the pendency of appeal, the sole respondent died on 25.05.2013 and the appellant came to know about the same only recently and thereafter, they have gathered information about the legal heirs of sole respondent. However, the second appeal was dismissed for default on 12.04.2018 and the delay of 1443 days arose in filing the above petition. The learned counsel would submit that they have not done anything wantonly and the delay is neither willful nor wanton. Hence, now they have filed this petition to restore the appeal with the delay of 1443 days.



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3. But, Mr.S.Kaithaimalai Kumar, learned counsel appearing for Respondents 2 to 5 submitted that even before numbering the appeal, the 1st respondent died. Only in order to drag on the proceedings, they have not taken steps in time. Hence, he vehemently opposed to allow this petition.

4. Considering the facts and circumstances and also considering the fact that the case is of the year 2013, this Court is inclined to condone the delay with a condition that the learned counsel for petitioners/appellants shall pay a cost of Rs.3000/- payable to the contesting respondents' counsel 2 to 5 on or before 24.08.2022. Accordingly, this petition is ordered and the Second Appeal is restored.

5. Post the matter on 24.08.2022

10.08.2022

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10.08.2022