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C.M.P.No.10344 of 2022

in

SA.SR.No.62857 of 2022

P.T.ASHA, J.,

The above application has been filed to condone the delay of 2263 days in preferring the Second Appeal. The petitioners are the defendants in the suit O.S.No.288 of 2008 on the file of the Principal District Munsif Court, Ulundurpet. The above suit has been filed by the respondent herein for a declaration of title and for recovery of possession. The suit was dismissed by the Judgement and Decree dated 19.12.2013 against which the plaintiff/ the 1st respondent herein had preferred A.S.No.26 of 2014 on the file of the II Additional Sub Court, Villupuram. The learned Appellate Court had reversed the judgement of the Trial Court.

2. It is the case of the petitioners that after the pronouncement of the judgement they had engaged the services of one Mr.Ganesh of Ulundurpet to help them to file an appeal before this Court. The said Ganesh had also taken papers and assured the petitioners that he would engage a counsel and the parties were under the genuine impression that a counsel has been nominated before this Court.



3. Meanwhile, the said Ganesh passed away in November 2018.

Thereafter, they had received a notice in the execution proceeding and only when they had made enquiries they came to learn that Ganesh had not entrusted the brief to any counsel in Chennai. Consequently, the appeal was not filed.

4. The learned counsel for the appellant would submit that the certified copy of the judgement and decree was immediately handed over to the said Ganesh. The appellants have acted very diligently. Further there is a substantial case to be argued.

5. Mr.A.Parandhamam, learned counsel would say he is representing the 1st respondent, however, no vakalat has been filed by him. He would submit that the delay is inordinate.

6. Heard the counsels.

7. The reason for the delay is the death of a counsel who despite being entrusted with the papers have not been diligent enough to engage the



services of the counsel here in the High Court. A perusal of the certified copy of the judgement and decree would indicate that copy application has been filed immediately and the certified copies of the Judgement have also been obtained in time. In the light of the reasons given and as the same is a genuine and bonafide one, the delay is condoned.

8. The Registry is directed to number the appeal, if it is otherwise in order and list the same for admission.

08.11.2022

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