



C.M.P.No.16271 of 2021

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in S.A.No.538 of 2009

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C.V.KARTHIKEYAN, J.

The Civil Miscellaneous Petition has been filed seeking to restore S.A.No.538 of 2009 which had been dismissed for non prosecution on 17.06.2021.

2. In the affidavit filed in support of this petition, it had been stated that the son of the brother-in-law of the counsel had expired on 15.06.2021 in his native place and ceremonies continued till 18.07.2021. The learned counsel therefore was not able to appear and present the case. In view of the absence, the Second Appeal was dismissed by order dated 17.06.2021.

3. A perusal of record also show that the plaintiff in the Original Suit is the appellant herein. He had suffered a decree and also suffered an adverse Judgment in the First Appellate Court. Second Appeal had been admitted and two substantial questions of law had been framed.

4. The burden is therefore cast on the Court to answer the substantial questions of law since that is what the litigant expects. I would therefore restore the Second Appeal but however place an obligation on the part of the learned counsel to argue the Second Appeal.



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5. In view of the above reasoning, the Civil Miscellaneous Petition is allowed.

13.07.2022
(1/2)

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