



WEB COPY



C.M.P.No.5393 of 2022
in S.A.No.1303 of 2006

KRISHNAN RAMASAMY, J.,

This petition has been filed by the petitioners/respondents to condone the delay of 168 days in filing the application in the above second appeal.

2.Mr.T.Murugamanickam, learned Senior Counsel appearing for the petitioners would submit that the above second appeal is disposed of by virtue of memo, which was filed by the earlier counsel for the petitioners stating that the second appeal may be allowed with liberty to the petitioners to take appropriate proceedings available under the Tamil Nadu Cultivating Tenants Protection Act.

3.Learned Senior Counsel appearing for the petitioners would submit that his client has not given any instruction to file the said memo. Behind the back, the earlier counsel has filed such memo. Since the petitioners are not aware of the disposal of the second appeal, they could not file an application to



set aside the judgment and decree dated 12.03.2019 and therefore, the delay has occurred. Hence, he prayed to allow the present petition.

4.Learned counsel appearing for the respondent would submit that this Court passed the judgment and decree on merits and not the basis of the memo filed by their counsel, therefore, the question of setting aside the judgment and decree does not arise. Even, if the petitioners are aggrieved over the judgment and decree passed by this Court, they should have gone before the Hon'ble Supreme Court and not before this Court.

5.Considering the submission made by the learned counsel appearing for the petitioners as well as the respondent, this Court is of the view that the present petition is filed only to condone the delay in filing the petition to set aside the judgment and decree. This Court satisfied with the reasons stated in the affidavit filed in support of this petition to the extent to condone the delay. The respondent shall raise his objections when the petition to set aside the judgment and decree came to be filed.



6. Accordingly, the delay is condoned and the present petition stands allowed.

25.11.2022

rst



WEB COPY



KRISHNAN RAMASAMY, J.,

rst

C.M.P.No.5393 of 2022
in S.A.No.1303 of 2006

25.11.2022