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C.M.P.No.11000 of 2022
in
C.M.A.Sr.No.129905 of 2019

P.T.ASHA, J.,

This petition is filed to condone the delay of 450 days in filing the above appeal.

2. The appellant before this Court is the third party-Bank, who had even prior to the arbitration proceedings being initiated got the property mortgaged in their favour by deposit of title deeds on 26.08.2015 registered as Document No.2885 of 2015 on the file of the Sub Registrar Office, Theppakulam and the other deed on 14.12.2015 registered as Document No.4085 of 2015 on the file of the very same Sub Registrar Office.

3. Despite the fact that the respondents 2 to 4 had entered appearance before the Arbitral Tribunal, they had not brought it to the notice of the Arbitrator that there is an earlier mortgage in favour of the appellant herein. The learned Arbitrator has ordered attachment of the properties and the appellant had come to learn about the said order passed by the learned Arbitrator only when they

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had attempted to register the Sale Certificate. Aggrieved by the said order, which has been made behind their back, the appellant has filed this appeal. In the said process, there occurred a delay of 450 days.

5. Heard the learned counsel for the petitioner and perused the materials available on record.

6. This Court, vide order dated 18.07.2022 has ordered notice to the respondents. Though the contesting first respondent alone has been served, they have not entered appearance. The other respondents, who are the borrowers and the respondents before the Arbitral Tribunal, have not been served.

6. However, considering the fact that the reasons stated in the affidavit filed in support of this petition are sufficient and considering the fact that the contesting respondents have been served, this petition is allowed and the delay of 450 days in filing the appeal is condoned.



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

18.08.2022

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