



C.M.P.No.27900 of 2019
in S.A.No.1063 of 2007

KRISHNAN RAMASAMY, J.,

This petition has been filed by the petitioner/appellant seeking to set aside the dismissal order and restore the Second Appeal in S.A.No.1063 of 2007, which was dismissed for non-prosecution on 17.10.2019.

2.The learned counsel appearing for the petitioner/appellant would submit that on 04.10.2019, the above Second Appeal was to be taken after the Bench case. At that time, since another case was reached in other Court he could not appear for the present case and the case got adjourned to 17.10.2019. On 17.10.2019 also while he was engaged in other Court, the Second Appeal was called and dismissed for non-prosecution. He would further submit that the delay is neither willful nor wanton and prayed to allow the present petition.

3.The learned counsel appearing for the respondent/respondent would submit that the present petition for restoration has been filed as early as on 2019 without any delay, however, the petitioner/appellant has not taken any steps to list the matter deliberately to stall the E.P. Proceedings.



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4. Though the learned counsel appearing for the respondent/respondent made an objection that the petitioner/appellant has not taken any steps to list the matter for a period of three years, this Court feels that in the interest of justice and to give fair adjudication, the present petition needs to be allowed. Accordingly, this petition is allowed.

5. Post the Second Appeal for final hearing on 10.10.2022.

23.09.2022

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