



C.M.P.No. 1019 of 2012

in

S.A. No. 2023 of 2000

T.V. THAMILSELVI, J.

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This petition has been filed seeking to condone the delay of 205 days in filing the petition for setting aside the exparte order of dismissal of Second Appeal.

2. Mr.P.Mani, learned counsel for petitioner/appellant submitted that the above appeal was dismissed for default on 12.04.2012. He would submit that only on receipt of summons by the police authorities, the appellant came to know about the dismissal of the above appeal and due to unaware of further proceedings, he could not immediately contact his counsel to take further steps. Hence, the petition to restore the above appeal was not filed in time. In view of the same, there is a delay of 205 days arose in filing to petition to restore the Second Appeal. Furthermore, he would submit that as the appellant is an illiterate agriculturist and due to his ill-health, he unable to contact promptly his counsel to ascertain the stage of the matter. So, the non-appearance of the counsel on record on that day as well as the delay in filing the petition for setting aside the exparte order of dismissal of the above second appeal is neither willful nor wanton.

Therefore, he has filed the above petition praying to condone the delay.



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3. Today, when the matter taken up for hearing, there is no representation on the side of respondent.

4. On seeing the facts, it reveals that the appeal was filed in the year of 2000 and the same is pending for a long time. Due to lack of communication, the petition to set aside the exparte order of dismissal of second appeal was not filed in time, however, he is having valid defence to prove his case. Therefore, on considering the fact that the appeal is pending from the year of 2000, which is pending for a long time, to give one more opportunity and also to put an end to the litigation, this Court is inclined to condone the delay in filing the petition to restore the exparte order of dismissal of the above Second Appeal. Accordingly, this petition is ordered.

5. Post the matter on 25.09.2023.

01.09.2023

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