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C.M.P.No.4945 of 2023

in

A.S.Sr.No.1734 of 2023

R.SUBRAMANIAN, J.

and

R.KALAIMATHI, J.

The petitioner seeks condonation of delay of 2442 days in filing the appeal. A suit for money filed in O.S.No.1404 of 2014 for recovery of a sum of Rs.22,42,962/- came to be decreed on 29.02.2016. The present appeal is filed on 03.01.2023. The delay is actually 2532 days. There cannot be deduction of 90 days period allowed for filing an appeal, if copy application is filed after the expiry of the 90 days period.

2.The reason assigned is that one of the counsel, who had appeared for the appellant before the Trial Court became an Additional Advocate General and this case, being a private matter, was lost sight off by his colleagues. It is also pleaded that though an appeal was filed in this Court even in the year 2016, the same could not be retrieved, despite hectic search made by the counsel concerned, both previous and present and their respective colleagues.



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3.No doubt, the delay is too long and the appellant is bound to explain each days delay. This Court and the Hon'ble Supreme Court have repeatedly held that a liberal approach is the norm and a strict requirement of explaining each days delay will be an exception. The pandemic period has also added to the delay. We cannot blame the appellant for entire period of delay, since almost 2 ½ years had gone on the pandemic period.

4.Considering the reasons assigned particularly, the fact that the counsel's Office having lost track of the case, we are of the opinion that the delay could be condoned at heavy terms, in order to give an opportunity to the appellant to contest the appeal. Hence, the delay is condoned, subject to the following conditions:-

- i) The appellant shall pay a cost of Rs.25,000/- to the respondent.
- ii) The appellant shall also deposit a sum of Rs.15,00,000/- to the credit of the suit in O.S.No.1404 of 2014 on the file of the XVIII-Additional City Civil Court, Chennai.
- iii) The cost shall be paid within two weeks from today and the deposit shall be made within four weeks from today.



iv) Failing compliance with any one of the conditions above, this

petition will stand dismissed.

kkn

(R.S.M., J.) (R.K.M., J.)

18.07.2023



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