



C.M.P.No.1124 of 2023

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in
C.M.P.Sr.No.20081 of 2010
in
S.A.No.312 of 2004

P.T. ASHA. J.

The above petition is filed to condone the delay of 4677 days in re-presenting the case papers of C.M.P.Sr.No.20081 of 2010 in S.A.No.312 of 2004, which is a petition filed to record the 10th respondent as the legal representative of the deceased 1st respondent on the basis of her Will said to have been executed by the 1st respondent in favour of the proposed party on 11.05.2005.

2. In the affidavit filed in support of the said petition, the petitioner would state that the petition had been filed in time on 02.03.2010 and is returned on 09.03.2010 for producing the Will and the Death Certificate. The same has not been produced in time and therefore the delay had occurred. The petitioner would also submit that he had lost his right hand and that he was not having sufficient wherewithal to go over to meet his counsel to give his instructions.



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3. Thereafter, when he came to know about the dismissal of the Second Appeal he had contacted his counsel and the petition has been re-presented. However, the delay of 4677 days had occurred in the meanwhile. The suit against which the Second Appeal has been filed is one for partition. Further, the appeal has not abated on account of the death of the 1st respondent since the appellant is none else than her son which is on record. The proposed party is sought to be now impleaded as there is a Will executed by the 1st respondent in her favour. Therefore, considering the above factors though the learned counsel for respondents 2 to 5 would oppose the petition, the same is allowed on payment of cost of Rs.2,500/- to the learned counsel for the respondents 2 to 5, on or before 07.02.2023.

4. Post the matter *“For Reporting Compliance”* on 08.02.2023.

25.01.2023

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