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C.M.P.No.2123 of 2023
in
A.S. SR. No. 116585 of 2022

T.V. THAMILSELVI, J.

This petition has been filed seeking to condone the delay of 125 days in filing the above appeal.

2. Today, when the matter taken up for hearing, Mr.T.R.Rajaraman, learned counsel for petitioner/appellant would submit that the above first appeal was initially preferred as a Civil Revision Petition on 20.10.2022 against the order passed in the application filed under Order VII Rule 11 of C.P.C. He would submit that a copy application was filed on 11.03.2022 and though the certified copies were received, it was misplaced by the Advocate's Clerk and a fresh copy application was filed and the above appeal was filed. He would further submit that as the plaintiffs were under the impression, a single Civil Revision Petition is to be filed against the order of allowing the petition filed under Order VII Rule 11 of C.P.C. and a separate appeal is to be filed as against the judgment and decree in O.S.No.77 of 2019 and the Civil Revision Petition was filed in time. However, the Registry returned the revision petition as not maintainable and thereafter, he has preferred the present regular appeal after rectifying



the earlier defects in filing. Hence, there is a delay of 125 days arisen due to the aforesaid reasons. Accordingly, he has filed the above petition.

3. Notice served on the respondents and Mr.T.N.Rangesh Kanna, learned counsel for Respondents 1 to 4 and 6 to 8 appeared and submitted that he has no objection in allowing this petition.

4. Considering the facts and circumstances, and the reasons stated by the petitioner in the affidavit is justifiable one. Accordingly, this court is inclined to allow this petition and Registry is directed to number the Appeal if it is otherwise found to be in order.

5. Post the matter on 07.06.2023. In the meanwhile, the learned counsel for appellants is directed to serve typed set of papers on the learned counsel for respondents.

17.04.2023

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