



C.M.P.No. 6256 of 2023

in

S.A. No. 924 of 2004

T.V. THAMILSELVI, J.

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This petition has been filed seeking to condone the delay of 1705 days in filing the application to restore the above Second Appeal, which was dismissed for non-prosecution on 10.04.2018.

2. Mr.N.Ponraj, learned counsel for petitioner/2nd appellant submitted that the above appeal was dismissed for default on 10.04.2018. He would submit that due to lack of communication, he is not able to follow the appeal proceedings and furthermore, the appellant's counsel on record was died. Thereafter, the matter was dealt by another counsel, but he was not informed about the dismissal of appeal and later he came to understand that the above appeal was dismissed for non-prosecution. However, there is a delay of 1705 days arisen in filing the petition to set aside the dismissal order. Accordingly, he has filed the above petition praying to condone the delay in filing the petition to restore the above S.A.

3. Mr. G.Palani, learned counsel for respondent appeared and raised strong objections stating that the reason for the delay is not properly explained and the reason assigned by him is not sufficient to condone the delay. Hence, he prayed to dismiss the petition.



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4. On seeing the facts, it reveals that the suit was filed seeking for the relief of specific performance and on a reversal findings, the above appeal was filed. Due to lack of communication, the petition to restore the second appeal was not filed in time. However, the plaintiff has also taken steps to execute the decree. So, to put an end to the litigation, this Court is inclined to condone the delay on condition that the petitioner shall pay a cost of Rs.5000/- payable to the learned counsel for respondent on or before 26.09.2023. Accordingly, this petition is ordered.

5. Post the matter on 26.09.2023.

24.08.2023

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