



C.M.P.No. 6765 of 2021

in

S.A. No. 694 of 2005

T.V. THAMILSELVI, J.

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This petition has been filed seeking to condone the delay of 586 days in filing the petition to set aside the order dated 16.07.2018 dismissing the above Second Appeal for default.

2. Mr.K.Selvaraj, learned counsel for petitioner/appellant submitted that the above appeal was dismissed for default on 16.07.2018. He would submit that 2nd appellant is petitioner's mother died on 29.01.2013 leaving her, the petitioner herein as her sole and surviving legal heir and his mother only prosecuting the appeal. So, there is no communication about the dismissal of appeal to the petitioner and later he came to understand that the above appeal was dismissed for default, due to which, there is a delay of 586 days arisen in filing the petition to set aside the dismissal order. Accordingly, he has filed the above petition praying to condone the delay and to restore the S.A.

3. Mr. Muthumani Doraisamy, learned counsel for respondents appeared and raised objections stating that as the delay is not properly explained, he prayed to dismiss the petition.



4. On seeing the facts, it is seen that mother was the second appellant herein and she only look after the case, however, she died on 29.01.2013, subsequently, her son came to know about the dismissal of appeal and filed this petition. On considering the fact that since the appeal is pending from the year of 2005 and when son is also on record, the learned counsel for respondent raised objection, this Court is inclined to condone the delay on payment of cost of Rs.2000/- payable to the learned counsel for respondent on or before 28.07.2023 and accordingly, this petition is ordered. On such payment of cost, the Second Appeal is restored.

4. Post the matter on 01.08.2023.

14.07.2023

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