



CMP No.18447 of 2022 in
CMA No.1865 of 2022

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D.KRISHNAKUMAR, J.

AND

K.GOVINDARAJAN THILAKAVADI, J.

(Order of this Court was made by D.KRISHNAKUMAR, J.)

This petition has been filed to set aside the order of dismissal for non-prosecution passed by this Court in CMA No.1865 of 2022 dated 09.09.2022 and restore the same for final disposal.

2. The learned counsel for the petitioner submitted that, on the date of hearing on 09.09.2022, the petitioner was unable to appeal before the Court, since his elder father died on 08.09.2022 and hence, the appeal was dismissed for default. He further submitted that the non appearance of petitioner on that day is neither willful nor wanton and hence, the dismissal order may be set aside.

3. The learned counsel appearing for the respondent has not raised any objection to allow the petition.

4. Being satisfied with the reasons assigned in the affidavit filed along with



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the petition and also taking into account the submission of the learned counsel appearing for the respondent, we inclined to allow the petition.

5. Accordingly, this petition is allowed and the Civil Miscellaneous Appeal is restored to file.

(D.K.K., J.) (K.G.T.,J.)

07.03.2023

(1/2)

mst



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