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C.M.P.No. 2163 of 2020

in

S.A. No. 276 of 2014

T.V. THAMILSELVI, J.

This petition has been filed seeking to set aside the dismissal order and restore the above second appeal, which was dismissed for default on 09.12.2019.

2. Mr.K.A.Vimal Kumar, learned counsel for petitioners/appellants submitted that the above Second Appeal was dismissed for default on 09.12.2019. He would submit that when the matter was taken up on the date of hearing, he was held up in other court and hence, he was not able to represent the matter on that day. Accordingly, it was dismissed for default. The non-appearance of learned counsel for appellants is neither willful nor wanton. Hence, he has filed the above petition to restore the above S.A.

3. Mr. R.Ramesh, learned counsel for respondents 1,2,5 and 6 appeared and raised strong objections stating that the appeal is pending from the year of 2014 and purposely, they are not inclined to proceed further and willfully they have filed this petition belatedly.



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4. Considering the facts and circumstances, and also the fact that the suit was filed seeking for partition between family members and the same is pending from the year 2001, so to put up an end to the issue, this Court is inclined to allow this petition and to restore the above second appeal on condition that the petitioners/appellants shall pay a cost of Rs.3000/- payable to the respondents' counsel 1,2,5 and 6 within a period of two weeks from the date of receipt of copy of this order.

5. Post the matter on 19.09.2023.

18.08.2023

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