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C.M.P.No. 6019 of 2020

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in
S.A.Sr. No. 160168 of 2019

P.T.ASHA, J.

The notice which has been issued to respondents 1 to 3 privately has been returned with the endorsement "unclaimed" and it is seen that intimation has been delivered twice to them. Similar is the case of the Court notice. Therefore, there is a deemed service on respondents 1 to 3. Respondents 4 and 5 have been served and the 4th respondent has been represented by Mr.B.Tamilnidhi, Additional Government Pleader, who is only a formal party.

2. The above petition is filed for condoning the delay of 1072 days in filing the Second Appeal. The defendants are the appellants before this Court.

3. The suit in question has been filed to declare the respondents 1 to 3 as the legal representatives of the deceased



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Meganathan and for an injunction restraining the 5th defendant from dispensing the amount to the defendants 1 to 3 / the appellants herein.

4. The suit O.S.No.104 of 2009 was decreed by the District Munsif, Tambaram by judgement and decree dated 30.06.2011. Challenging the same, the appellants herein had filed A.S.No.5 of 2012 on the file of the Subordinate Judge, Tambaram, which appeal had also gone against them and the decree of the Trial Court was confirmed, against which the present Second Appeal has been filed, however, with a delay as stated above.

5. The reasons for the delay has been set out in paragraph nos.10 and 11 of the affidavit filed in support of the condone delay petition, wherein, they have submitted that earlier they had engaged one set of counsels who have failed to follow up the appeal properly which constrained them to engage another counsel, that counsel also has not taken care of the case properly and has also not informed the



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appellants about the dismissal of the appeal. Thereafter, the present counsel have been engaged who have obtained the status of the case and thereafter applied for the order copies. In the process, the delay has taken place. Therefore, the appellant would seek to have the delay condoned.

6. The reasons given clearly shows that it was beyond the control of the appellants. However, taking into account the fact that the delay is 1072 days, the same is allowed on costs of Rs.1000/-, which shall be paid to the Advocate's Clerk's Welfare Association on or before 03.01.2024. Post the matter under the caption "For Reporting Compliance" on 04.01.2024.

19.12.2023

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