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C.M.P.No.6357 of 2024

C.M.P.No.6357 of 2024
in Appeal (CAD) (SR) No.16081 of 2023

M.SUNDAR,J.,

and

K.GOVINDARAJAN THILAKAVADI, J.,

**(Order of the Court was made by K.GOVINDARAJAN
THILAKAVADI, J.,)**

Captioned Civil Miscellaneous Petition is filed to condone the delay of 187 days in re-presenting the appeal preferred against the judgment and decree dated 16.11.2022 made in C.O.S.No.864 of 2022 by the Commercial Court at Egmore, Chennai.

2. Mr.V.G.Suresh Kumar, learned counsel appearing for the petitioner/appellant would submit that there was a delay in paying the deficit court fee for the amended decree and that has caused the delay in preferring the appeal and therefore, the said delay is neither willful nor wanton and prays for allowing this application.



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3. The reasons for the delay is set out in paragraphs 7 and 8 of the support affidavit, which are extracted hereunder:

'7. I therefore state that there has been a delay in paying the deficit court fee which has arisen solely due to the fact that the decree had been subsequently amended by the Hon'ble Court below on the memo filed seeking clarification in this regard. The non-payment of the said sum of Rs.3,97,640/- towards court fee is neither willful nor wanton but the said additional court fee is now paid by virtue of the amendment carried out.

8. I state that the amended decree was issued by the Hon'ble Court below after carrying out the amendment only on 13.12.2023 and the appeal is now being represented with the aid of the said amended decree. A delay of 187 days has therefore arisen in representing the appeal, which is neither willful nor wanton.'

4. Therefore, we are of the view that there is no deliberate or gross negligence on the part of the petitioner/appellant. Hence, we deem it appropriate to allow this application.



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5. Accordingly, this application is allowed and the delay of

187 days in re-presenting the appeal is condoned. There shall be no order as to costs.

Registry is directed to number the appeal, if it is otherwise in order and post the appeal as per the chronological order.

gpa

(M.S.J.) (K.G.T.J.)

03.04.2024



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