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C.M.P.No.4577 of 2024
in A.S (SR) No.165605 of 2023
(Filing Number)

M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

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

The above Civil Miscellaneous Petition is filed to condone the delay of 80 days in filing the above first Appeal against the order dated 13.06.2023 passed in O.S.No.33 of 2014 by the Additional District Judge, Dharmapuri.

2. The learned counsel for the petitioner submits that due to age related illness of the petitioner and as the petitioner is living in a remote village, he was unable to contact his Advocate for filing the appeal in time. The relevant portion of the reasons for delay is contained in paragraph 5 of the support affidavit, which reads as follows:

'5. I humbly submit that there was delay in applying and obtaining of the certified copies of judgment and decree of the trial Court by our lower court advocate. Further, I was not able to contact my advocate immediately due to my old age and I am in a remote village and not conversant with court proceedings and very poor condition in communication. Therefore, there was delay in filing the first appeal before this Court. The said delay is neither willful nor wanton, but due to the above said reasons. I am with a great difficulty able to



contact my advocate in Chennai and arrange for filing the above first appeal in this Hon'ble Court.....'

3. On the other hand, the learned counsel appearing for the respondent submitted that the petitioner ought to have been more diligent in filing the appeal and the reasons assigned by the petitioner is not sufficient for condoning the delay.

4. However, considering the facts and circumstances of the case, the trajectory the matter has taken and the manner in which the parties are circumstanced, we feel that this is a fit case to accede to the prayer in the present petition.

5. Accordingly, this petition is allowed and the delay of 80 days in filing the first Appeal is condoned. There shall be no order as to costs.

Registry is directed to number the appeal if it is otherwise in order.

gpa

[M.S.,J.] [K.G.T.,J.]

04.03.2024



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