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C.M.P. No. 23135 of 2024
in S.A.SR.No.18847 of 2024

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T.V. THAMILSELVI, J.

This petition has been filed seeking to condone the delay of 350 days in filing the above Second Appeal against the judgment and decree dated 27.04.2023 passed in A.S.No.35 of 2022, on the file of XXIII Addl. District Judge, City Civil Court, Chennai reversing the judgment and decree passed in O.S.No.5120 of 2018 dated 10.12.2021 on the file of VII Asst. Judge, City Civil Court, Chennai.

2. Mr.M.Suresh, learned counsel for petitioners submitted that as the certified copies of judgment and decree passed in A.S.No. 35 of 2022 was not available, the same was obtained from the first appellate court and immediately after getting the copies, during the fourth week of January 2024, he handed over papers to counsel on record and thereafter the second appeal was filed on 31.01.2024. Hence, there is a delay of 350 days in filing the above second appeal arose, which is neither willful nor wanton. Therefore, he filed this petition to condone the delay in filing the above second appeal.



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3. Mr.T.R.Sundaram, learned caveator counsel for respondent appeared and raised strong objections in allowing this petition.

4. Considering the facts and circumstances, and the reasons stated by the petitioner in the affidavit stating that due to the delay in obtaining certified copy of judgment and decree from the first appellate court, the delay arose and to avoid multiplicity of proceedings, this court is inclined to allow this petition on condition that the petitioners shall pay a cost of Rs.5000/- payable to the learned counsel for respondent within a period of one week from the date of receipt of copy of this order. Registry is directed to number the Second Appeal if it is otherwise found to be in order and post the matter on 12.11.2024.

23.10.2024

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