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C.M.P. No. 6833 of 2024
in S.A.SR.No.30674 of 2020

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T.V. THAMILSELVI, J.

This Civil Miscellaneous Petition has been filed seeking to condone the delay of 1254 days in filing the above Second Appeal against the judgment and decree dated 05.08.2019 passed in A.S.No.47 of 2013, on the file of II Addl. Subordinate Judge at Coimbatore confirming the judgment and decree passed in O.S.No.2114 of 2005 dated 14.08.2012 on the file of III Addl. District Munsif Court, Coimbatore.

2. Mr.T.Sundaravadanam, learned counsel for petitioners/appellants submitted that as there is a mistake crept by the trial court, the petitioners are not able to get certified copies of judgment immediately and also due to illness, they were not able to contact their counsel to know about the status of the case and after recovery from the illness, contacted him and came to know that the appeal was dismissed and he advised them to file a second appeal. However, there is a delay of 1254 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.K.Govi Ganesan, learned counsel for respondent appeared and raised strong objections to allow this petition.

4. Considering the facts and circumstances and on considering both side submissions and the fact that the suit was filed in the year of 2005 for the relief of declaration and also to give one more opportunity to the appellants, this court is inclined to allow this petition on condition that the petitioners shall pay a cost of Rs.3000/- (Rupees three thousand only) payable to the learned counsel for respondent within a period of one week from the date of receipt of copy of this order, failing which, this petition will be dismissed. On such deposit, Registry is directed to number the above Second Appeal if it is otherwise found to be in order and post the matter on 13.08.2024.

05.08.2024

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