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C.M.P.No. 12266 of 2020

in

S.A. No. 830 of 2005

T.V. THAMILSELVI, J.

This petition has been filed seeking to restore the above second appeal, which was dismissed for non-prosecution on 27.04.2016 by setting aside the said order.

2. Mr.S.Anburaja, learned counsel for petitioner/appellant submitted that the above Second Appeal was dismissed for non-prosecution on 27.04.2016. He would submit that when the matter taken up for hearing on that day, the counsel on record unable to appear and argue the case, however, inadvertently, he has noted that the matter was adjourned and subsequently, he came to know that it was dismissed for non-prosecution. Furthermore, as the property is valuable, the petitioner has been suffered from the dismissal of the Second Appeal. He would also submit that his absence at the time of hearing of the above appeal on that day and the non-filing of restoration petition within a stipulated time is neither willful nor wanton, but due to the bonafide reason stated above. Hence, he has filed the above petition to restore the above S.A.



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3. Mr. M.Rajasekhar, learned counsel for respondent appeared and raised strong objections in allowing the above petition.

4. Considering the facts and circumstances, and being satisfied with the reasons assigned in the affidavit filed in support of the petition seeking to restore the Second Appeal, this Court is inclined to allow this petition, since there is possibility of settlement between the parties and to restore the above second appeal.

5. Post the matter on 18.11.2024.

06.11.2024

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