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C.M.P. No. 11602 of 2024
in S.A.SR.No.38416 of 2024

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T.V. THAMILSELVI, J.

This petition has been filed seeking to condone the delay of 1962 days in filing the above Second Appeal against the judgment and decree dated 19.03.2018 passed in A.S.No.31 of 2017, on the file of Sub-Court at Kangeyam confirming the judgment and decree passed in O.S.No.108 of 2013 dated 06.01.2015 on the file of District Munsif Court, Kangeyam.

2. Mr.C.Munusamy, learned counsel for petitioner submitted that she applied for certified copy of judgment and decree on 27.07.2023 and the same was made ready on 14.08.2023. However, she being an illiterate lady and also due to lack of communication, she was not able to file the appeal in time. Only during the second week of March 2024, she handed over papers to counsel on record, but after making it ready the appeal papers, by oversight he was not able to file the same within time and the second appeal was filed on 19.03.2024. Hence, there is a delay of 1962 days in filing the above second appeal arose, which is neither willful nor wanton.



C.M.P. No. 11602 of 2024
in S.A.SR.No.38416 of 2024

WEB COPY

Therefore, he filed this petition to condone the delay in filing the above second appeal.

3. Despite service of notice, there is no representation on the side of respondents.

4. On seeing the facts, the first appellant is a Widow and an illiterate lady represented minor children to file this Second Appeal. Even before the trial court, she was remained exparte. However, she contended that she is having valid defence and the appeal was preferred by her against the judgment and decree passed by the trial court in A.S.No. 31 of 2017 was also dismissed by the first appellate court stating that she has not produced any evidence before the trial court. Being an illiterate lady, she was not given valid advise. However, she is having valid defence that her husband Eswaran was given lawful share in the suit property and already a settlement deed relied by the 1st defendant, who is daughter of Duraisamy gounder, which is invalid one for the reason that the said Duraisamy gounder was mentally ill and without his knowledge, the document was forcibly obtained. Therefore, the total extent of the property, based on the settlement deed, the plaintiff claimed right, for which she is not entitled.



C.M.P. No. 11602 of 2024
in S.A.SR.No.38416 of 2024

Hence, she preferred this Second Appeal.

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5. Considering the facts and circumstances and the fact that she is having valid defence to prove her case and to give one more opportunity, this court is inclined to allow this petition on condition that the petitioner shall pay a cost of Rs.2000/- payable to the Tamil Nadu State Legal Services Authority, Chennai 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 27.11.2024.

12.11.2024

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C.M.P. No. 11602 of 2024
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