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C.M.P. No. 14019 of 2024
in S.A.SR.No.41548 of 2024

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T.V. THAMILSELVI, J.

This petition has been filed seeking to condone the delay of 1362 days in filing the above Second Appeal against the judgment and decree dated 13.02.2020 passed in A.S.No.330 of 2013, on the file of IV Addl. City Civil Court, Chennai confirming the judgment and decree passed in O.S.No.3511 of 2011 dated 26.06.2013 on the file of VI Asst. City Civil Judge, Chennai.

2. Mr.R.Bhagawat Krishna, learned counsel for petitioners submitted that the first appeal was dismissed on 13.02.2020 and they have instructed their previous counsel to file the above appeal. However, they came to know that their previous counsel died and accordingly, they have filed the copy applications to get the certified copies through another counsel and obtained the same during the month of March 2024. Furthermore, he would submit that some of copy applications were returned stating that the signature of previous counsel not tallied with the original signature as such, there is huge delay and thereafter, they have handed over the papers to the present counsel on record and filed the above second appeal. Hence, there is a delay of 1362 days in filing the above Second Appeal, which is neither willful nor



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wanton and only due to the aforesaid reasons. Therefore, he filed this petition to condone the delay in filing the above second appeal. 3. Mr. S.Balasubramani, learned counsel for 2nd respondent appeared and raised strong objections in allowing this petition.

4. On seeing the facts, it reveals that due to the delay in obtaining certified copies of judgment and decree and due to lack of communication, they are not able to contact their counsel and the earlier counsel also passed away. Considering the facts and circumstances and on considering the reasons stated in the affidavit seems to be justifiable one and to give one more opportunity, this Court is inclined to allow this petition on condition that the petitioners shall pay a cost of Rs.2500/- (Rupees two thousand five hundred only) **as non-refundable deposit to the credit of The Medical Research Foundation (Sankara Nethralaya), No.41/18, College Road, Chennai-6. HDFC Bank Ltd., A/c.No.00821000087815, IFSC Code No.HDFC0000082** within a period of one week from the date of receipt of copy of this order. On such payment of cost, Registry is directed to number the Second Appeal if it is otherwise found to be in order and post the matter on 04.10.2024.

18.09.2024

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