



C.M.P.Nos. 12443 & 12444 of 2024
in
S.A. SR.Nos. 144878 & 144940 of 2023

T.V. THAMILSELVI, J.

These Civil Miscellaneous Petitions have been filed seeking to condone the delay of 177 days in filing the above Second Appeal against the judgment and decree dated 01.08.2023 passed in A.S.No.6 of 2021, on the file of Subordinate Court at Mettupalayam reversing the judgment and decree passed in O.S.No.172 of 2002 dated 15.04.2021 on the file of District Munsif Court, Mettupalayam.

2. Mr.P.Tamilavel, learned counsel for petitioner submitted that the above Second Appeals were returned for rectifying certain defects on 07.11.2023 and 10.11.2023 respectively, however, there was a flood during the first week of December 2023, thereby the papers have got wet and the date in which the judgment and decree order copy made ready in Appeal Suit has been tarnished, which is not visible at all. Furthermore, there was no query about limitation in the return sheet, in which the above Second Appeals have been filed, but the same were filed in time. Thereafter, the above Second Appeals were represented on 01.03.2024, but it was returned on 05.04.2024 for filing a fresh judgment and decree copy and a fresh cop application was filed on 15.04.2024 and the same was obtained on the same



day itself. However, there is a delay of 177 days in filing the above second appeals arose, which is neither willful nor wanton. Therefore, he filed these petitions to condone the delay in filing the above second appeals.

3. Mr.S.N.Arunkumar, learned counsel for respondent appeared and raised strong objections stating that sufficient cause was not furnished for the delay in filing the above Second Appeals.

4. Considering the facts and circumstances, and the fact that the suit is of the year 2002 for recovery of possession and also considering the nature of relief as well as pendency of litigation between the parties and to avoid further complications and the fact that the reasons stated by the petitioner in the affidavit seems to be justifiable one, this court is inclined to allow these petitions on condition that the petitioner shall pay a cost of Rs.2000/- each, totally a sum of Rs.4000/- 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 Appeals if it is otherwise found to be in order and post the matters on 02.09.2024.

20.08.2024

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