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C.M.P. No. 11027 of 2024  
in S.A.SR.No.98148 of 2023

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**in**  
**S.A.SR.No.98148 of 2023**  
**T.V. THAMILSELVI, J.**

This petition has been filed seeking to condone the delay of 424 days in filing the above Second Appeal against the judgment and decree dated 28.10.2021 passed in A.S.No.27 of 2017, on the file of Principal Sub-Court at Ariyalur confirming the judgment and decree passed in O.S.No.323 of 2011 dated 24.07.2015 on the file of Principal District Munsif Court, Ariyalur.

2. Mr.K.Gandhi Kumar, learned counsel for petitioner submitted that as the petitioner was in judicial custody, he was not having sufficient means. So, his wife belatedly received papers from trial court advocate and handed over the same to his counsel at Chennai only during the month of November 2023. Thereafter, after making it ready the appeal papers, the second appeal was filed on 13.03.2024. Hence, there is a delay of 424 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.M.S.Gokulraj, learned counsel for respondent appeared and raised strong objections stating that there is no justifiable reasons assigned in the petition. Hence, he prayed to dismiss this petition.

4. Considering the facts and circumstances, and on considering the fact that suit was filed in the year 2011 by the appellant/plaintiff claiming the relief of declaration against the defendants and now against the concurrent findings of the courts below, he preferred this second appeal and on seeing the reasons stated by the petitioner in the affidavit seems to be justifiable one and in order to give one more opportunity, this court is inclined to allow this petition on condition that the petitioner shall pay a cost of Rs.3000/- payable to the learned counsel for respondent on or before 21.08.2024. Registry is directed to number the Second Appeal if it is otherwise found to be in order and post the matter on 21.08.2024.

**08.08.2024**

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