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C.M.P. No. 19494 of 2024
in S.A.SR.No.68435 of 2023

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T.V. THAMILSELVI, J.

This petition has been filed seeking to condone the delay of 334 days in filing the above Second Appeal against the judgment and decree dated 29.10.2020 passed in A.S.No.53 of 2019, on the file of Principal Sub-Court at Namakkal confirming the judgment and decree passed in O.S.No.43 of 2016 dated 03.07.2019 on the file of Principal District Munsif Court, Namakkal.

2. Mr.T.L.Thirumalaisamy, learned counsel for petitioners submitted that due to covid-19 pandemic, the petitioners are not able to contact their lower court counsel, however, the appeal suit was dismissed on 29.10.2020. He would submit that only during the interference made by the respondents, they came to know about the dismissal of appeal. Thereafter, immediately after getting papers from the petitioner's lower court counsel and engaged the counsel on record for filing the Second Appeal. Only during the month of May 2023, they have handed over the papers. Hence, there is a delay of 334 days in filing the above second appeal arose, which is neither willful



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nor wanton. Therefore, he filed this petition to condone the delay in filing the above second appeal.

3. Dr.S.Suriya, learned Addl. Government Pleader appearing for respondents appeared and raised strong objections stating that the reasons stated by them is unjustifiable one. Hence, she prayed to dismiss this petition.

4. Considering the facts and circumstances, and the fact that due to Covid-19 pandemic, they could not contact their counsel and only during the interference made by the respondents, they came to know about the dismissal of first appeal and 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/- (Rupees three thousand only) payable to the learned Addl. Government Pleader appearing for respondents 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 04.10.2024.

24.09.2024

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