



C.M.P. No. 11998 of 2023

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C.M.P. No. 11998 of 2023
in
S.A. Sr.No.69716 of 2023

P.T.ASHA, J.

The petition is filed to condone the delay of 320 days in filing the above Second Appeal.

2. The only reason that has been stated is that from 2020 onwards the 1st petitioner had suffered from several ailments and the 2nd petitioner was taking care of her and it was only February 2023, after the 1st petitioner had recovered that the petitioners had taken steps to meet their counsel and the copy application was also applied and obtained only thereafter. Apart from the illness, the petitioners have also contended that they had to mobilise funds, since considerable amounts had been spent on medical treatment of the 1st petitioner. Therefore, the delay.



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3. The respondent has filed a counter inter alia contending that there is no proof to support the reasons for the delay and that the delay is huge. The counter has been signed by the deponent in Kannada. However, the same has not been sworn before the Commissioner of oaths and has only been signed by the counsel at Namakkal. The appellants are the plaintiffs and the suit is one for declaration and injunction.

4. It is no doubt true that the petitioners have not produced the documents to support their contention that the 1st petitioner was ill. However, taking note of the fact that the 1st petitioner is aged 70 years, the contention appears plausible. Considering the fact that there are no adverse orders against the respondent since the petitioners who are plaintiffs have been concurrently lost in both the Courts below, the delay shall be condoned by putting the petitioner on terms. Therefore, the delay is condoned on a condition that a sum of Rs.1000/- is paid to Mr.Arun Ambedkar, learned counsel



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attached to the office of Mr.R.Prabhakar, learned counsel for the respondents by 13.02.2024.

5. The delay is condoned.

6. Post the matter under the caption "*For Reporting Compliance*" on 14.02.2024.

08.02.2024

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