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C.M.P.No.20305 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2024

CORAM

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

C.M.P.No.20305 of 2021

in S.A.No.1322 of 2008

1.Nazibunnisa (Deceased) and 10 others ... Petitioners

Vs.

1.V.Pattabiraman (Deceased) ... Respondent

For Petitioners:

Mr.N.K.Suresh Kumar

For Respondent:

Mr.G.Jeremiah

ORDER

This application has been filed to condone the delay of 1058 days in filing pending disposal of second appeal.

2. Heard Mr.N.K.Suresh Kumar, learned counsel for the petitioners.

3. In the affidavit filed in support of the petition, it is stated that during the pendency of the above second appeal, the first petitioner viz., Nazibunnisa died



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on 23.11.2016, leaving behind her husband (proposed second respondent), two sons and three daughters as her legal heirs. However, due to bone cancer the deceased petitioner's son namely Abdul Majid Shaikh died on 02.11.2020. Due to the said bonafide reasons, they could not file the implead petition to pleaded the legal heirs of the deceased first petitioner, within the time frame. Hence, it is neither willful nor wanton.

4. Though the reasons stated in the affidavit are not accurate, this Court is unable to discard them. In matters like this, the Court is also expected to show some leniency.

5. Having regard to the facts that there are plausible reasons and this Court has no material to disbelieve them, this Court is of the view that the delay is neither willful nor wanton. However, there is some amount of negligence on the part of the petitioner, and the delay could have been avoided by showing diligence. Hence this petition is allowed on terms.

6. Accordingly the petition is ordered and the delay is condoned on condition that the petitioner shall pay a sum of Rs.5,000/- (Rupees Five



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Thousand Only) to Sivanandha Gurukulam, Kattangulathur, Chengalpattu
– 603 203 on or before 25.12.2024.

7. List the case on 09.01.2025.

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