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C.M.P.No.20296 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2024

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THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

C.M.P.No.20296 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

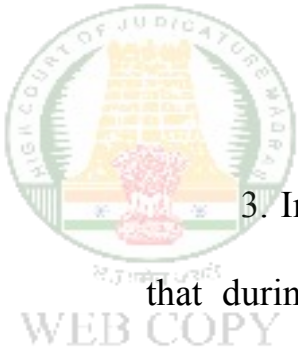
For Respondent:

Mr.G.Jeremiah

ORDER

This application has been filed to condone the delay of 820 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, the petitioner has stated that during the pendency of the above second appeal, the sole respondent, V.Pattabiraman died on 19.07.2017, leaving behind the proposed respondents as his surviving legal heirs. However, on 28.10.2019 only, the petitioner came to know about the death of the respondent. This being the case, due to bone cancer the petitioner's son died on 02.11.2020. Due to the said bonafide reasons, the petitioner could not file the implead petition within the time frame. Hence, it is neither willful nor wanton.

4. Though the reasons stated by the petitioner 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 the petitioner has given 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.



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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 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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J.SATHYA NARAYANA PRASAD J.

vm

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