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C.M.P. No. 12700 of 2023  
in S.A.SR.No.75372 of 2023

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**in**  
**S.A.SR.No.75372 of 2023**

**T.V. THAMILSELVI, J.**

This petition has been filed seeking to condone the delay of 1781 days in filing the above Second Appeal against the judgment and decree dated 07.04.2018 passed in A.S.No.33 of 2016, on the file of I Addl. District Judge at Erode confirming the judgment and decree passed in O.S.No.159 of 2013 dated 09.02.2016 on the file of Principal Subordinate Judge, Erode.

2. Mr.P.Kannan Kumar, learned counsel for petitioner submitted that after the dismissal of appeal suit, one advocate clerk, who is native of petitioners, had volunteered to obtain order copies and file appeal before this court, but he neither repaid the fees paid by them nor gave the number of Second Appeal. However, on enquiry, they came to know that during Covid pandemic, he died and his family is not in a position to inform the same. Thereafter, they have engaged the present counsel on record and applied for certified copies again and after getting certified copies from the lower appellate court, they have preferred the Second Appeal only during the 2<sup>nd</sup> week of June 2023. Hence, there is a delay of 1781 days in filing the above second appeal arose, which is neither willful nor wanton. Therefore,



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he filed this petition to condone the delay in filing the above second appeal.

3. Ms.Zeenath Begam, learned counsel for 1<sup>st</sup> respondent and Mr.V.S.Kesavan, learned counsel for respondents 3 to 5 appeared and raised strong objections stating that they have not assigned proper reason for the delay.

4. Considering the facts and circumstances, and the reasons stated by the petitioner in the affidavit is justifiable one and to avoid further complications as well as to give one more opportunity, this court is inclined to allow this petition on condition that the petitioners shall pay a cost of Rs.3000/- each, totally a sum of Rs.6000/- payable to the contesting respondents 1, 3 to 5 within a period of one week from the date of receipt of copy of this order. On payment of cost, Registry is directed to number the Second Appeal if it is otherwise found to be in order and post the matter on 09.09.2024.

**20.08.2024**

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