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C.M.P. No. 18528 of 2024
in S.A.SR.No.76598 of 2024

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T.V. THAMILSELVI, J.

This petition has been filed seeking to condone the delay of 211 days in filing the above Second Appeal against the judgment and decree dated 31.07.2023 passed in A.S.No.21 of 2022, on the file of I Addl. District Judge at Tindivanam confirming the judgment and decree passed in O.S.No.85 of 2015 dated 07.01.2022 on the file of Subordinate Judge, Gingee.

2. Mr.V.R.Appaswamee, learned counsel for petitioner submitted that due to ill-health, the petitioner is not able to file this Second Appeal within a stipulated time and only during the third week of June 2024, he handed over papers to counsel on record and thereafter, the second appeal was filed on 21.06.2024. Hence, there is a delay of 211 days in filing the above second appeal arose, which is neither willful nor wanton. Therefore, he filed this petition to condone the delay in filing the above second appeal.



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3. Mr. M.Rajendiran, learned counsel for respondents 1, 2 and 4 appeared and raised strong objections stating that to prove the illness, there is no medical record produced.

4. On perusal of affidavit, the reasons stated by the petitioner in the affidavit for the delay is that due to ill-health, the petitioner was not able to file the appeal within a stipulated time. However, admittedly, the dispute is between brother and sisters, who are family members. So, on considering the facts and circumstances of the case and to avoid multiplicity of proceedings, this court is inclined to allow this petition on condition that the petitioner shall pay a cost of Rs.2000/- payable to the learned counsel or respondents 1, 2 and 4 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 16.12.2024.

02.12.2024

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N.B. : Issue order copy on 03.12.2024



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