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C.M.P. No. 19946 of 2024
in S.A.SR.No.8428 of 2024

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T.V. THAMILSELVI, J.

This petition has been filed seeking to condone the delay of 27 days in filing the above Second Appeal against the judgment and decree dated 07.09.2023 passed in A.S.No.49 of 2016, on the file of I Addl. Subordinate Judge, Erode reversing the judgment and decree passed in O.S.No.583 of 2009 dated 19.07.2016 on the file of District Munsif Court, Erode.

2. Mr.R.Prabakar, learned counsel for appellants submitted that as the judgment was pronounced in the appeal on 07.09.2023, however, due to ill health of 1st plaintiff, she could not instruct her counsel to file copy application. Accordingly, the copy application was filed only on 04.11.2023 and the copy was made ready on 24.11.2023 and it was delivered on 28.11.2023. Hence, due to some communication gab and due to non-cooperation of 1st plaintiff, during the last week of December 2023, they have instructed their counsel to file the Second Appeal. However, there is a delay of 27 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.

3. Mr. C.Jagadiesh, learned counsel for 5th respondent appeared and raised strong objections in allowing this petition stating that the explanation offered by the appellants is not satisfactory.



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4. Considering the facts and circumstances, and the reasons stated by the petitioner in the affidavit is justifiable one. Accordingly, this court is inclined to allow this petition. Registry is directed to number the Second Appeal if it is otherwise found to be in order and post the matter on 17.09.2024.

09.09.2024

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