



C.M.P.No.21718 of 2023
in C.M.A (SR) No.95811 of 2023

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(Filing Number)

M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

(Order of the Court was made by K.GOVINDARAJAN THILAKAVADI.J.,)

The above Civil Miscellaneous Petition is filed to condone the delay of 85 days in filing the above Civil Miscellaneous Appeal against the order dated 24.11.2022 passed in H.M.O.P.No.176 of 2021 by the Family Court, Perambalur.

2. Despite notice being served on the respondent, there is no representation for the lone respondent.

3. The reason for the delay has been articulated in Paragraph 7 of the support affidavit, which reads as follows:

'7. The petitioner states that the court below pronounced the order on 24.11.2022. The copy application was filed on 25.11.2022. The copies were made ready on 31.01.2023 and the same were received on 07.03.2023. The petitioner states since there were continuous mediations by relatives and friends for reunion, the above appeal was not filed in time. The petitioner states since the respondent put various conditions for reunion, including partition of the agriculture lands belong to the petitioner's mother and the



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house property excluding the petitioner's sister and mother and half share in the pension received by the petitioner's mother; the mediation failed last week. Hence, no other option, the petitioner has filed the above appeal after the expiry of the period of limitation. The delay is neither willful nor wanton. But for the reasons set out above, the appeal would have been filed in time. In the circumstances, it is just and necessary that the delay in filing above appeal may be condoned. By condoning the delay, no prejudice will be caused to the respondent herein. The petitioner states that he has prima facie case and the balance of convenience is in his favour.'

4. From the above reason given in the affidavit it is seen that there is no deliberate or gross negligence on the part of the petitioner/appellant in preferring the above appeal and the delay is only 85 days. Therefore, we feel that in order to render substantial justice, the said delay can be condoned.

5. Accordingly, this petition is allowed and the delay is condoned. There shall be no order as to costs.

Registry is directed to number the appeal if it is otherwise in order.

gpa

[M.S.,J.] [K.G.T.,J.]

15.02.2024

M.SUNDAR, J.,



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