



WEB COPY



C.M.P.No.20434 of 2024
in
C.M.P.SR.No.42558 of 2017
in
S.A.No.1214 of 2013

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N.SENTHILKUMAR, J.

This application has been filed to condone the delay of 1671 days in representing the above C.M.P.SR.No.42558 of 2017 in S.A.No.1214 of 2013.

2. Heard Mr.M.Hariharan, learned counsel appearing for the petitioner.

3. In the affidavit filed in support of the petition, the petitioner has stated that the second appeal has been preferred against the judgment and decree made in A.S.No.98 of 2012 on the file of the Sub Court, Erode. During the pendency of the above second appeal, the first respondent, Amudhavalli, died on 14.04.2017, leaving behind the proposed respondents as her surviving legal heirs. Therefore, the petitioner taken out an application to bring the legal representatives of the deceased first



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respondent on 09.06.2017. The Registry returned the papers for want of death certificate of the deceased first respondent. Since the petitioner was unable to get the death certificate, he could not represent the same. Finally, the petitioner has forwarded the death certificate in the month of May 2019, but the same was not represented in time since the returned application along with the docket sheet was misplaced along with other case bundles and there is a delay in searching the lost docket sheet.

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 the respondents within the period of two weeks from the date of receipt of a copy of this order.

7. Registry is directed to number the petition if the papers are otherwise in order and list the same for hearing on **21.10.2024**.

24.09.2024

cda

N.SENTHILKUMAR, J.

cda



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