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C.M.P. No. 21153 of 2024
in S.A.SR.No.98394 of 2024

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T.V. THAMILSELVI, J.

This petition has been filed seeking to condone the delay of 436 days in filing the above Second Appeal against the judgment and decree dated 21.11.2022 passed in A.S.No.36 of 2014, on the file of Subordinate Judge, Mettur reversing the judgment and decree passed in O.S.No.268 of 2011 dated 02.07.2014 on the file of District Munsif Court, Mettur.

2. Mr.K.Venkateswaran, learned counsel for appellants submitted that due to lack of communication as well as due to illness, 1st petitioner was not able to contact his counsel and only during the third week of July 2024 2023, she gave instructions to file the Second Appeal. However, he would submit that the husband of 1st petitioner viz., Sathyanarayanan purchased the property and subsequently he executed the alleged settlement deed in favour of her father-in-law/plaintiff. So, the trial court granted the relief of permanent injunction in favour of plaintiff. Challenging the



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concurrent findings of the courts below, this Second Appeal has been preferred. However, there is a delay of 436 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. A.M.Esakkiapan, learned counsel for respondent appeared and raised strong objections stating that without sufficient reasons for the delay, they have filed this petition.

4. On perusal of affidavit, it reveals that since the dispute is between daughter-in-law and father-in-law, now the 1st petitioner is living in suit premises along with her two daughters and one son and her husband was also passed away. On considering the facts and circumstances and the reasons stated by the petitioner in the affidavit for the delay is that due to lack of communication, the 1st petitioner was not able to file the appeal within a stipulated time and to avoid multiplicity of proceedings and to give one more opportunity, 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.



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5. Furthermore, considering the facts and circumstances of the case, both the appellants and respondent are directed to appear before this court on 09.12.2024.

6. Post the matter on 09.12.2024.

02.12.2024

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