



C.M.P.Nos.18297 & 18293 of 2023

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in

A.S.No.852 of 2014

M.SUNDAR, J.,

and

K.GOVINDARAJAN THILAKAVADI, J.,

**[Order of the Court was made by
K.GOVINDARAJAN THILAKAVADI, J.,]**

The petitioner in C.M.P.Nos.18297 & 18293 of 2023 is the appellant in A.S.No.852 of 2014.

2. The first respondent, as the plaintiff has filed a suit in O.S.No.28 of 2010 before the II Additional District Judge's Court, Pondicherry, for partition and separate possession of 1/3rd share of the suit properties. The suit was decreed in favour of the respondents against which the present appeal in A.S.No.852 of 2014 was filed.

3. While so, the said appeal suit was dismissed for default on 28.09.2022. In the support affidavit, it is submitted that due to oversight, the counsel for petitioner did not follow up the case and therefore, non-



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appearance of the counsel for appellant was neither willful nor wanton.

Hence, the delay may be condoned in filing the application for restoration.

4. Ms.S.Thenkodi Annam, learned counsel appearing for the petitioner would reiterate the same and also submitted that it is the mistake of the counsel and therefore, party should not be suffered and prays for allowing the said miscellaneous petitions.

5. Mr.K.S.Ilangovan, learned counsel of M/s.Achari and Antoni Associates (Law Firm) on behalf of respondents would submit that there is no serious objection in allowing the petitions.

6. Considering the facts and circumstances of the case on hand and in the interest of justice, it is deemed appropriate to allow the said miscellaneous petition with an intention to afford an opportunity for the petitioner to contest the above appeal suit on merits.



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7. In view of the above, delay is condoned. Accordingly, C.M.P.No.18297 of 2023 is allowed. Consequently, restoration application namely, C.M.P.No.18293 of 2023 is also allowed. Registry is directed to restore the main appeal i.e., A.S.No.852 of 2014 to file and list the same as per chronological order. There shall be no order as to costs.

[M.S., J] [K.G.T., J]
11.03.2024

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