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C.M.P. No. 18709 of 2023
in S.A.SR.No.101621 of 2023

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in
S.A.SR.No.101621 of 2023
T.V. THAMILSELVI, J.

This petition has been filed seeking to condone the delay of 421 days in filing the above Second Appeal against the judgment and decree dated 20.11.2021 passed in A.S.No.7 of 2018, on the file of Principal Sub-Court at Dharmapuri confirming the judgment and decree passed in O.S.No.79 of 2013 dated 07.11.2017 on the file of District Munsif Court, Dharmapuri.

2. Mr.C.Prabakaran, learned counsel for petitioner submitted that immediately after getting certified copy of the judgment and decree from the petitioner's lower court counsel, he was not able to come to Chennai and engage a counsel for filing the Second Appeal. Only during the third week of July 2023, he handed over papers to counsel on record, but after making it ready the appeal papers, by oversight he was not able to file the same within time and the second appeal was filed on 25.07.2023. Hence, there is a delay of 421 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.



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3. Mr.P.M.Jayachandran, learned counsel for 1st respondent appeared and raised strong objections stating that proper reason was not assigned for the delay.

4. Considering the facts and circumstances, and the reasons stated by the petitioner in the affidavit seems to be justifiable one and to give one more opportunity, this court is inclined to allow this petition on condition that the petitioner shall pay a cost of Rs.3000/- payable to the learned counsel for 1st respondent within a period of one week from the date of receipt of copy of this order.

5. As per the order of this court dated 11.11.2024 ordered for issuance of paper publication on the 2nd respondent and the proof of paper publication is yet to be submitted. Registry is directed to number the Second Appeal if it is otherwise found to be in order and also directed to print the name of 2nd respondent in the cause list.

6. Post the matter on 12.12.2024.

04.12.2024

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N.B. : Issue order copy on 05.12.2024



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in
S.A.SR. No. 101621 of 2023

04.12.2024