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C.M.P.No.17295 of 2024

C.M.P.No.17295 of 2024
in
O.S.A(CAD)SR.No.102989 of 2024

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

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

Captioned 'Civil Miscellaneous Petition' {hereinafter 'CMP' for the sake of brevity} has been filed to condone the delay of 154 days in preferring the appeal i.e., O.S.A(CAD)SR.No.102989 of 2024 which is filed against a 'judgment and decree dated 27.11.2023 passed in C.S.No.488 of 2019 on the file of this Court' {hereinafter 'impugned judgment and decree' for the sake of brevity}.

2. In the support affidavit, it is stated that the petitioners had some financial constraint and apart from that, the second petitioner is permanently residing in USA and her absence required additional time for consultation and decision making. Hence the delay, which is neither willful nor wanton.



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3. Ms.Arthi S.P, learned counsel for petitioners reiterated the same and submits that for the reasons mentioned in the support affidavit, delay has occurred and if the delay is not condoned, the petitioners will be put to great hardship and irreparable loss and therefore, prays for condonation of delay of 154 days in preferring the appeal.

4. Issue notice to respondent.

5. Ms.G.Selvi George, learned counsel accepts notice for respondent.

6. Learned counsel for respondent submits that the petitioners ought to have been more diligent in filing the appeal in time and reasons stated in the support affidavit are not sufficient to condone the said delay and therefore, the CMP is liable to be dismissed.

7. Heard both sides and perused the records.



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8. Keeping in view the submissions made by learned counsel for petitioners, considering the facts and circumstances of the case and in the interest of justice, we are inclined to condone the delay in filing the appeal.

9. Accordingly, CMP is allowed and delay of 154 days in filing the appeal is condoned.

10. Learned counsel for the respondent submits that connected OSA namely, OSA(CAD)No.30 of 2024 is scheduled to be posted on 22.08.2024 and requests for listing the appeal also on the same day.

11. Registry is directed to number the appeal, if it is otherwise in order and list the same on 22.08.2024.

[M.S., J] [K.G.T., J]
13.08.2024

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