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C.M.P. No. 18106 of 2024
in S.A.SR.No.105836 of 2024

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T.V. THAMILSELVI, J.

This petition has been filed seeking to condone the delay of 495 days in filing the above Second Appeal against the judgment and decree dated 30.11.2022 passed in A.S.No.25 of 2020, on the file of III Addl. District and Sessions Judge, Erode at Gobichettipalayam confirming the judgment and decree passed in O.S.No.23 of 2015 dated 18.09.2020 on the file of Sub-Judge, Gobichettipalayam.

2. Mr.S.Kamadevan, learned counsel for petitioner submitted that the 1st petitioner is wife of deceased A.R.Subramaniam and against whom, the respondent/plaintiff filed a suit for recovery of money. Based on the confession that her husband borrowed a loan, but it is totally false one, which was not appreciated by the courts below. However, due to lack of communication, there is a delay of 495 days in filing the above Second Appeal, which is neither willful nor wanton. Therefore, he filed this petition to condone the delay in filing the above second appeal.

3. Mr. J.Ranjith Kumar, learned counsel for respondent raised strong



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objections in allowing this petition.

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4. On seeing the facts, it reveals that the 1st petitioner being a widow woman and due to lack of communication, she is not able to contact her counsel and the earlier counsel also passed away. Considering the facts and circumstances and on considering the reasons stated 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 petitioners shall pay a cost of Rs.1000/- payable to the learned counsel for respondent within a period of one week from the date of receipt of copy of this order. On payment of cost, Registry is directed to number the Second Appeal if it is otherwise found to be in order and post the matter on 01.10.2024.

18.09.2024

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