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C.M.P. No. 22113 of 2023
in A.S.SR. No.105396 of 2023

**C.M.P. No. 22113 of 2023
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**M.SUNDAR,J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,**

(Order of the Court was made by K.GOVINDARAJAN THILAKAVADI, J.)

The present appeal is filed by the plaintiffs with a delay of 37 days. Hence the petitioners/appellants has preferred C.M.P. No.22113 of 2023 for condoning the delay of 37 days in filing said appeal.

2. The petitioners in paragraphs 4 and 5 of the support affidavit have explained the reasons for the delay. Paragraphs 4 and 5 of the support affidavit are extracted hereunder:

'4. I humbly submit that the unnumbered suit was taken up for hearing of maintainability and thereafter, the suit was rejected by the Hon'ble Principal District Judge, Tiruppur vide an order dated 07.03.2023. Aggrieved by the said final order dated 07.03.2023 passed in OSCFR No.1850 of 2023 by Hon'ble Principal District Judge, Tiruppur, the Petitioners/Appellants prefer the main First Appeal.



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The contents of the First Appeal may be read as part

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5. I humbly submit that this petitioner is filing a petition praying this Hon'ble Court to condone the delay of 33 days in filing the main First Appeal. The 1st petitioner is the single mother of the 2nd and 3rd Petitioners and the 2nd Petitioner is of unsound mind. Since this 1st Petitioner was unwell and could not travel from Tiruppur to Chennai to assist the advocate to prepare and file the Appeal in time. Hence there arose a delay of 33 days in filing the main Appeal before this Hon'ble Court and as such the delay is neither wilful nor wanton but only for the above said reason.'

3. Mr.E.K.Kumaresan, learned counsel for the petitioners would submit that considering the above reason, the delay may be condoned.

4. Mr.P.R.Shankar, learned counsel appearing for the second respondent would submit that the petitioners ought to have been more diligent in preferring the appeal in time.



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5. Heard both sides and perused the records.

6. The Intent of Section 5 of The Limitation Act, 1963 is only to help the Courts in delivering substantial justice. The explanation given by the petitioners in our opinion is found to be satisfactory. Hence in the interest of justice and considering the facts and circumstances of the case, this petition is allowed and the delay is condoned. There shall be no order as to costs.

(M.S.J.) (K.G.T.J.)
26.02.2024

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