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C.M.P. No. 5884 of 2024
in S.A.SR.No.82568 of 2023

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T.V. THAMILSELVI, J.

This petition has been filed seeking to condone the delay of 205 days in filing the above Second Appeal against the judgment and decree dated 25.08.2022 passed in A.S.No.6 of 2022, on the file of Principal Subordinate Judge, Vellore reversing the judgment and decree passed in O.S.No.335 of 2012 dated 05.01.2018 on the file of Principal District Munsif Court, Vellore.

2. Mr.K.Shakespeare, learned counsel for petitioners submitted that due to the suffering of calamities in their family after the onset of Covid-19 and due to the delay in obtaining the papers from 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 June 2023, he handed over papers to counsel on record and thereafter, the second appeal was filed. Hence, there is a delay of 205 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.M.Murali, learned counsel for 1st respondent and Mr.P.Anbarasan, learned counsel for respondents 2 and 3 have appeared and raised strong objections to allow this petition.

4. Considering the facts and circumstances, and the reasons stated by the petitioner in the affidavit stating that due to lack of communication, they are not able to file the appeal in time and originally, the suit was filed in the year of 2012 and 1st appellant is an illiterate lady, she is not able to file the appeal within a stipulated time, this court is inclined to allow this petition on condition that the petitioner shall pay a cost of Rs.2000/- payable to the learned counsel for respondent within a period of one week from the date of receipt of copy of this order. Registry is directed to number the Second Appeal if it is otherwise found to be in order and post the matter on 06.11.2024.

23.10.2024

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