



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

This order will now dispose of captioned 'Civil Miscellaneous Petition' (hereinafter 'CMP' for the sake of brevity).

2. This order has to be read in conjunction with and in continuation of earlier proceedings made in the previous listing on 22.01.2024 and a scanned reproduction of the same is as follows:





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C.M.P. No.22890 of 2023
in A.S.SR. No.119687 of 2023



3. The aforementioned proceedings captures all essentials that are imperative for appreciating this order and therefore we are not setting out the same again in this order.

4. Be that as it may, as regards first respondent, name of first respondent together with full and complete address as in the short and long cause titles has been shown in the cause list but there is no representation. As regards respondents 2 to 7, Mr.K.S.Karthik Raja, learned counsel is before us.



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5. Mr.A.Muthukumar, learned counsel for

petitioners/appellants draws our attention to paragraph 8 of the support affidavit which reads as follows:

'8. Aggrieved at the said judgment and decree, we have preferred the above intended appeal in this Hon'ble Court. I submit that the Trial Court dismissed the suit on 16.03.2023. Immediately our counsel applied for certified copies of the judgment and decree on 17.03.2023. The copies were made ready on 02.06.2023 and the same was received by my counsel on the very same day. I submit that the last date for filing the appeal before this Hon'ble Court was 31.08.2023. I submit that I was not keeping good health for the last one month. I submit that during last week of July, 2023, I fell sick due to severe back pain and diabetic. Hence I could not move out. The doctor advised me for a complete bed rest. Consequently we could not prefer the above appeal in this Hon'ble Court within time i.e. on or before 31.08.2023. Hence there is a delay of 12 days in preferring the above appeal in this Hon'ble Court. The delay is neither wilful nor wanton but due to the facts stated above. I submit that we have good case on merits. If the delay is not condoned, we will be put to irreparable loss and hardship. Hence interests of justice require that the delay in preferring the above appeal may be condoned.'



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6. Learned counsel reiterates the contents of aforementioned paragraph 8.

7. Mr.K.S.Karthik Raja, learned counsel for respondents 2 to 7 submits that the petitioners/appellants should have been more vigilant.

8. We carefully considered the rival submissions on both sides.

9. Owing to the nature of the matter, considering the facts and circumstances of the case, as it is submitted that the deponent of the support affidavit Mr.M.Iyyanar (first appellant) was very unwell and was in bed rest coupled with the fact that the delay sought to be condoned is only 12 days, captioned CMP is ordered as prayed for. There shall be no order as to costs.

(M.S.J.) (K.G.T.J.)
12.02.2024

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