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C.M.P. No.21684 of 2019
in S.A.SR.No.51955 of 2011

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T.V. THAMILSELVI, J.

This petition has been filed seeking to condone the delay of 3521 days in filing the above Second Appeal against the judgment and decree dated 19.07.2001 passed in A.S.No.73 of 1998, on the file of Sub-Court at Kallakurichi reversing the judgment and decree passed in I.A.No.2000 of 1996 in O.S.No.965 of 1989 dated 12.06.1998 on the file of Principal District Munsif Court, Kallakurichi.

2. Mr.R.Nalliyappan, learned counsel for appellant submitted that after disposal of first appeal, mother of petitioner received the judgment and decree copy and sent the same to her counsel at Chennai one Mr.Velumani and when she enquired about the status of the case in the month of April 2003, they said that the papers were returned for want of certain particulars and after receipt of papers, again it was represented. In the meanwhile, earlier counsel was died and mother also died, who is only following the case. Therefore, there is a delay of 3521 days in filing the above second appeal arose, which is neither willful nor wanton. Now, they



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came to know that the appeal was not filed and immediately taken steps to proceed with the case. Accordingly, he filed this petition to condone the delay in filing the above second appeal.

3. Mr.V.Manohar, learned counsel for respondents 2 and 3 appeared and submitted that already final decree was passed in I.A.No.2000 of 1996 based upon preliminary decree, wherein the petitioner also appeared. Thereafter, the property was also allotted to them and they took possession and enjoying the property for 10 years and names were also transferred in the revenue records. Hence, he prayed to dismiss this petition. By way of reply, the learned counsel for petitioner would submit that the final decree was passed on long back.

4. On considering both side submissions, it is found that the reasons for the delay was not properly explained and furthermore, delay of each and every day has to be explained, since nearly about 12 years later, he came forward with this petition. But the reasons stated in the affidavit is unjustifiable one. Therefore, this court is not inclined to allow this petition and the same is liable to be dismissed. Accordingly, this Civil Miscellaneous Petition is dismissed as no merit.



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