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CMP. 25200 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 05-12-2024  
CORAM  
THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI

CMP. 25200 of 2024  
AND  
SA SR. 127827 OF 2024

DUR AISAMY

APPELLANT(S)

Vs

S.P.RATHINASABAPATHY  
AND 6 OTHERS

RESPONDENT(S)

**For Appellant(s):**

Mr. P.LAKSHMI KANDAN

**For Respondent(s):**

Mr.R.RAJESH FOR R1

**ORDER**

This Civil Miscellaneous Petition has been filed seeking to condone the delay of 126 days in filing the above Second Appeal against the judgment and decree dated 02.01.2024 passed in A.S.No.54 of 2022, on the file of I Addl. District Court at Namakkal confirming the judgment and decree passed in O.S.No.71 of 2015 dated 08.02.2022 on the file of Sub-Court, Rasipuram.

2. Mr.P.Lakshmi Kandan, learned counsel for petitioner submitted that immediately after getting papers from the petitioner's 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 September 2024, he handed over papers to counsel on record and thereafter, the second appeal was filed



on 20.09.2024. Hence, there is a delay of 126 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.

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3. Mr.R.Rajesh, learned counsel for 1<sup>st</sup> respondent appeared and raised formal objections stating that proper reason was not assigned for the said delay.

4. Considering the facts and circumstances and the reasons stated by the petitioner in the affidavit seems to be justifiable one, this court is inclined to allow this petition on condition that the petitioner shall pay a cost of Rs.1000/- payable to the learned counsel for 1<sup>st</sup> 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 06.01.2025.

**(T.V.THAMILSELVI J.)**  
**05-12-2024**

RPP