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C.M.P. No. 22316 of 2024
in S.A.SR.No.130470 of 2024

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T.V. THAMILSELVI, J.

This Civil Miscellaneous Petition has been filed seeking to condone the delay of 670 days in filing the above Second Appeal against the judgment and decree dated 01.04.2022 passed in A.S.No.31 of 2021, on the file of Principal Subordinate Court at Salem reversing the judgment and decree passed in O.S.No.90 of 2018 dated 19.03.2021 on the file of District Munsif Court, Vazhapadi.

2. Mr..Senthil, learned counsel for petitioner submitted that since the petitioner is a senior citizen, aged about 74 years, he could not further litigate the proceedings, he approached the respondents for an amicable settlement, the respondents also promised to give his share, but they failed to allot the same. Hence, he was not able to file the Second Appeal within a stipulated time. Only during the third week of September 2024, he handed over papers to counsel on record, but after making it ready the appeal papers, by oversight he was not able to file the same within time and the second appeal was filed on 20.90.2024. Hence, there is a delay of 670 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



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second appeal.

3. Mr.N.Umapathi, learned counsel for respondents 1 to 4 appeared and raised strong objections in allowing this petition stating that sufficient cause was not assigned for the delay.

4. Considering the facts and circumstances, and the reasons stated by the petitioner in the affidavit stating that since he is 74 year old senior citizen, he is not able to file appeal in time and so, on seeing the facts as well as considering the age of petitioner and to give one more opportunity, this court is inclined to allow this petition on condition that the petitioner shall pay a cost of Rs.3000/- payable to the learned counsel for respondents 1 to 4 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 05.12.2024.

25.11.2024

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N.B. Issue order copy on 26.11.2024

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