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CMP.NO.22210/2024 IN OSA.SR.No.114561/2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.10.2024

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE DR. JUSTICE A.D.MARIA CLETE

CMP.No.22210/2024 in OSA.SR.No.114561/2024

Crescent Auto Repairs and Services India
Private Limited rep.by its Director
A.K.Abdullah

..Petitioner

Versus

1.M/s.Chennai Vaazh Kovilpatti Uravinmurai
Nadar Sangam, rep.by its President
L.M.Krishnaswamy Nadar
No.18/1, Lattice Bridge Road
Adyar, Chennai 20.

2.M/s.Chennai Vaazh Kovilpatti Uravinmurai
Nadar Sangam, rep.by its President
Mr.K.Ramamsamy Nadar
Reg.No.45/84, No.43[18/1], Lattice Bridge Road
Adyar, Chennai 20.

..Respondents

Prayer:- Civil Miscellaneous Petition filed under section 5 of the Limitation Act to condone the delay of 206 days in filing the above Original Side appeal.



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For Petitioner : Mr.Najeeb Usman Khan

For R2 : Mr.S.Packiaraj

ORDER

[Order of the Court was made by S.S.SUNDAR, J.,]

- (1)The above Civil Miscellaneous Petition is filed to condone the delay of 206 days in filing the Original Side Appeal.
- (2)The learned counsel for the petitioner has produced before this Court, proof of service of notice on the 1st respondent.
- (3)The petitioner/plaintiff has filed the suit for specific performance and lost the suit. The reasons stated by the petitioner is that the plaintiff wanted to change their counsel and the erstwhile counsel who was engaged to conduct the case before the Trial Court, refused to hand over the papers and give change of vakalat. The delay, according to the petitioner, was due to refusal of the erstwhile counsel to give change of vakalat and hand over the suit papers.
- (4)Learned counsel for the 2nd respondent raised serious objection. He stated that the reason is false and made for the purpose of this case.



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(5) Though the delay is inordinate, the reasons stated by the petitioner cannot be discarded.

(6) Having regard to the serious prejudice that is likely to be caused to the defendants in a suit for specific performance, this Court instead of awarding cost, is of the opinion that the fact that the appeal itself is filed with an inordinate delay of 206 days, shall be taken note of to assess the conduct of the appellant while hearing the appeal.

(7) Hence, **the petition is ordered and the delay of 206 days is condoned.**

(8) Registry is directed to number the original side appeal **if the papers are otherwise in order and post the same for admission.**

[SSSRJ] [ADM CJ]
29.10.2024

AP
Internet: Yes



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