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C.M.P. No. 25619 of 2024
in S.A.SR.No.58703 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **18-12-2024**

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THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI

CMP NO. 25619 of 2024

AND

SA SR NO. 58703 OF 2024

Dhanalakshmi
and another

Appellant(s)

Vs

N.Venkatachalam
and another

Respondent(s)

For Appellant(s):

Mr. P.Tamilavel

For Respondent(s):

Mr. A.Ram Kumar For R1

R2 - No Such Person

ORDER

This Civil Miscellaneous Petition has been filed seeking to condone the delay of 700 days in filing the above Second Appeal against the judgment and decree dated 17.03.2021 passed in A.S.No.18 of 2017, on the file of II Addl. District Judge, Tiruppur partly confirming the judgment and decree passed in O.S.No.467 of 2007 dated 24.09.2016 on the file of Principal Subordinate Judge, Tiruppur.



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2. Mr.P.Tamilavel, learned counsel for petitioners submitted that as the certified copy of judgment and decree was not available, the same was obtained on 27.09.2021, however, Covid-19 pandemic situation arose and the 1st petitioner also affected with Covid-19. He would submit that since she was 70 year old senior citizen, she was not able to mobilise fund and not able to come to Chennai and engage a counsel for filing the Second Appeal. Only during the last week of September 2024, she 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 17.10.2016. Hence, there is a delay of 700 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 second appeal.

3.Mr. A.Ram Kumar, learned counsel for 1st respondent raised strong objections stating that to drag on the proceedings, they have filed this petition.



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4. On seeing the facts, it reveals that the suit was filed in the year of 2007 and the reasons stated by the 1st petitioner in the affidavit that due to covid-19 pandemic, due to old age related health issues and also due to lack of communication, she was not able to file this Second Appeal within a stipulated time. So, on considering the facts and circumstances and to avoid multiplicity of proceedings and in the interest of justice, this court is inclined to allow this petition on condition that the petitioner shall pay a cost of Rs.4000/- payable to the learned counsel for 1st respondent within a period of one week from the date of receipt of copy of this order. On such payment of cost, Registry is directed to number the Second Appeal if it is otherwise found to be in order and post the matter on 20.01.2025.

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N.B. : Issue order copy on 26.12.2024



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T.V.THAMILSELVI, J.

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