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C.M.P.No. 29179 of 2024
in S.A.No.416 of 2007

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: **18-12-2024**
CORAM
THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI

CMP NO. 29179 of 2024
AND
SA NO. 416 OF 2007

D.S.Ramamurthy

Appellant(s)

Vs

D.S.Manikam Achari
and 4 Others

Respondent(s)

For Appellant(s):

Mr. A.Palaniappan

For Respondent(s):

Mr. P.S.Kothandaraman for RR1,3 & 4
No appearance - R5

ORDER

This Civil Miscellaneous Petition has been filed seeking to restore the above second appeal, which was dismissed for default on 13.12.2022 as against 2nd respondent.

2. Mr.A.Palaniappan, learned counsel for petitioner/appellant submitted that the above Second Appeal was dismissed for default on



C.M.P.No. 29179 of 2024
in S.A.No.416 of 2007

13.12.2022 as against 2nd respondent due to non-payment of batta for him.

WEB COPY

He would submit that inadvertently and out of oversight, he failed to effect payment of batta to the 2nd respondent as per the direction of this court and now he is ready and willing to effect payment of batta for him. He would also submit that non-payment of batta for 2nd respondent is neither willful nor wanton, but due to the bonafide reason stated above. Hence, he has filed the above petition to restore the above S.A.

3. Mr. P.S.Kothandaraman, learned counsel for respondents 1, 3 and 4 appeared and raised formal objections in allowing the above petition.

4. Considering the facts and circumstances, and being satisfied with the reasons assigned in the affidavit filed in support of the petition seeking to restore the Second Appeal and the fact that batta was already paid for 2nd respondent and also to avoid further complications, this Court is inclined to allow this petition and to restore the above second appeal.

5. Post the matter on 28.01.2025.

18.12.2024

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WEB COPY



C.M.P.No. 29179 of 2024
in S.A.No.416 of 2007

T.V.THAMILSELVI, J.

rpp

C.M.P.No. 29179 of 2024
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S.A. No. 416 of 2007

18.12.2024