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C.M.P. No. 27750 of 2023
in S.A.SR.No.89445 of 2023

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T.V. THAMILSELVI, J.

This petition has been filed seeking to condone the delay of 2066 days in filing the above Second Appeal against the judgment and decree dated 06.02.2017 passed in A.S.No.25 of 2016, on the file of Principal District Judge, Krishnagiri reversing the judgment and decree passed in O.S.No.235 of 2014 dated 29.04.2016 on the file of Subordinate Judge, Uthangarai.

2. Mr.K.Thiruvengadam, learned counsel for petitioners submitted that before the trial court, the respondent/plaintiff filed a suit for the relief of specific performance of reconveyancing the agreement and consequential relief of permanent injunction against the appellants/defendants and the same was dismissed. Against which, they preferred an appeal in A.S.No.35 of 2016 and the same was allowed. Now, challenging the reversal findings of the first appellate court, the defendants have preferred this Second Appeal. He would submit that immediately after getting papers from the petitioners lower court counsel, the 1st petitioner, who is aged about 63



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years, having suffered with age related health issues and also due to lack of communication, he was not able to come to Chennai and engage a counsel for filing the Second Appeal. Only during the first week of July 2023, he handed over papers to junior counsel, 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 11.07.2023. However, there is a delay of 2066 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. On perusal of records, it is brought to the notice that notices sent to the respondents were served and they need some more time to file objections. But, the fact reveals that the suit was filed in the year of 2014 and due to the pendency of proceedings, the parties could not realise the fruits of the decree. . So, on considering the facts and circumstances and the reasons stated by the petitioner in the affidavit seems to be justifiable one and also considering the age of petitioners, who are senior citizens and now to avoid multiplicity of further proceedings, this court is inclined to allow this petition on condition that the petitioners shall pay a cost of



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Rs.15,000/- for the loss incurred to the plaintiff, payable to the credit of Suit in O.S.No.235 of 2014 on the file of Subordinate Judge, Uthangarai within a period of three weeks 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 07.01.2025.

02.12.2024

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N.B. : Issue order copy on 03.12.2024



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