



C.M.P.No. 28755 of 2023

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in
S.A. Sr. No. 157391 of 2023

P.T.ASHA, J.

The above petition is filed to condone the delay of 393 days in filing the Second Appeal.

2. The suit is one for declaration and permanent injunction and the defendants are the appellants before this Court. The reason for the delay is that the counsel to whom the counsel for the appellant / petitioners before the Trial Court had referred for preferring an appeal had passed away. Therefore, the appeal could not have been filed in time. The petitioner took some time to obtain return of the bundle and entrust the same to the present counsel. Therefore, the delay has occurred.

3. The respondents filed a counter contending that the blanket allegation about the counsel having passed away will not be



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a sufficient reason.

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3. This Court is however not inclined to accept this defense, since it is a practice that the Trial Court lawyers would send the brief to the counsels here, who would communicate with the client only through the Trial Court lawyers. Since the Lower Appellate Court counsel had passed away, it is quite natural that the appellants would not have been in a position to get any feedback about the status of their case.

4. The delay has been properly explained with valid and sufficient reasons. Therefore, the delay is condoned. The Registry is directed to number the appeal, if otherwise in order. The Registry is also directed to print the name of Mr.R.Selvakumar at the time of admission.

26.02.2024

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