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C.M.P.No.7088 of 2024

C.M.P.No.7088 of 2024
in
A.S.SR.No.7215 of 2023
(Filing Number)

M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

[Order of the Court was made by
K.GOVINDARAJAN THILAKAVADI, J.,]

Captioned Civil Miscellaneous Petition is filed to condone the delay of 153 days in representing the first appeal in A.S.SR.No.7215 of 2023 on the grounds set out in paragraph No.2 of the supporting affidavit which is extracted herein:

2. I most respectfully state that in the above First Appeal, the case papers were returned by the office for the first time on 23.01.2023 and the papers were re-presented within time. The above papers again returned by Registry on 10.03.2023 as such the returned papers ought to have been represented on or before 20.03.2023. However, there is a delay of 24 days in representation and the papers were represented on 13.04.2023. The Registry returned the papers on 02.05.2023 and the same was represented within time. The above papers again returned by Registry on 27.07.2023.



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As the returned papers got mixed up with other bundles, the returned papers could not be represented on time. It is also further stated that after tracing also as the Registry was insisting for payment of Court fee at the rate of 7.5%, the petitioner was not able to arrange the same. Meanwhile the Registry was pleased to accept the papers on payment of 3% Court fee. The case papers are presented today as the bundles were not traced out and the papers are represented today with the delay of 153 days. The delay is purely bona fide due to the reasons stated above. Unless this Hon'ble Court is pleased to condone the delay of 1532 days in representing the above papers, the petitioners will be put to irreparable loss and hardship. Whereas no prejudice will be caused to the respondents.'

2. Mr.P.Satheesh Kumar, learned counsel appearing for the petitioner / appellant would submit that the delay is neither wanton nor willful and hence, the delay may be condoned.

3. Keeping in view the submission made by the learned counsel for the petitioner which is also supported by the affidavit of the petitioner, we deem it appropriate to condone the delay in representing the above first appeal.



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4. Accordingly, this Civil Miscellaneous Petition is allowed. Delay is condoned. There shall be no order as to costs.

5. Registry is directed to number the main appeal, if it is otherwise in order and list the same as per chronological order.

[M.S., J] [K.G.T., J]
27.03.2024

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