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C.M.P.No. 23028 of 2022

in

S.A. No. 477 of 2005

T.V. THAMILSELVI, J.

This petition has been filed seeking to condone the delay of 126 days in filing the petition to restore the above second appeal, which was dismissed for non-prosecution on 09.03.2018.

2. Mr.I.Abrar Md. Abdullah, learned counsel for petitioner/appellant submitted that the above Second Appeal was dismissed for non-prosecution on 09.03.2018. He would submit that only on 2nd week of August 2018, when the respondent attempted to interfere with the possession of suit property, the petitioner came to know that the Second Appeal was dismissed and thereafter, he came to Chennai and engaged the counsel on record. However, there is a delay of 126 days arose in filing the petition to restore the above Second Appeal, which 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. T.Panchatsaram, learned counsel for 1st respondent appeared and raised strong objections stating that sufficient reason was not assigned

for the said delay.



4. Considering the facts and circumstances, and on considering the reasons assigned in the affidavit filed in support of the petition stating that only when the respondent attempted to interfere with his possession, he came to know about the dismissal of second appeal and thereafter, he took steps to restore the same and to avoid multiplicity of proceedings, this Court is inclined to allow this petition on condition that the petitioner/appellant shall pay a cost of Rs.2000/- payable to the learned counsel for 1st respondent within a period of one week from the date of receipt of copy of this order.

5. Post the matter on 07.01.2025.

05.12.2024

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N.B. : Issue order copy on 09.12.2024



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