



CMP(MD) No.10058 of 2023

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)**

Wednesday, the Seventh day of February Two Thousand and Twenty Four

PRESENT

**The Hon`ble Dr.Justice G.JAYACHANDRAN
and
The Hon`ble Mr.Justice C. KUMARAPPAN**

**CMP(MD) No.10058 of 2023
IN
AS(MD) No.134 of 2014**

1 R.ARIVUDAI NAMBI (DIED)

1.NAGALAKSHMI,

2 PAHALAVAN

3 RAMYA

... PETITIONERS/PROPOSED APPELLANTS

Vs

AMEERDEEN,

... RESPONDENT/RESPONDENT

Civil Miscellaneous Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to condone the delay of 1721 days in filing to set aside the abatement petition in A.S.(MD).No.134 of 2014.

PRAYER IN AS(MD)No. 134 of 2014:

To set aside the portion of judgment which disallowing the relief of specific performance as well as permanent injunction by the Judgment and Decreeal order by the learned II Additional Disrict Judge, Tiruchirappalli in O.S.No. 62 of 2012 dated 25.04.2014 and allow the First Appeal.

<https://www.mhc.tn.gov.in/judis>



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ORDER : This Civil Miscellaneous Petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.S.DEENADHAYALAN, Advocate for the petitioner and of MR.THANGAPANDIAN, Advocate on behalf of the Respondent, the court made the following order:-

The suit for specific performance was partly allowed by granting alternate relief of refund of the money advanced. Not being satisfied, the plaintiff has preferred this appeal. However, pending appeal, he died and his legal representatives want to get themselves impleaded as appellants to continue the appeal. In the said venture, there is a delay of 1721 days. Hence, the present petition is filed to condone the delay in filing the petition to set aside the abatement caused due to the death of the sole appellant.

2. The learned counsel for the respondent opposed the petition on the ground that enormous delay has not been properly explained and therefore, the delay should not be condoned.

3. Being a first appeal and appeal been filed in time and been pending for more than ten years, no prejudice will be caused to the respondent if the delay is condoned and the matter is taken up and decided on merits.

4. Hence, the petition to condone the delay is allowed on payment of cost of Rs.5,000/- (Rupees Five Thousand only) to the respondent within a period of two weeks from today.



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5. Post the matter on 21.02.2024 for reporting compliance.

sd/-
07/02/2024
/ TRUE COPY /

/02/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

BALA

TO

THE II ADDITIONAL DISTRICT JUDGE, TRICHY

+1. C.C. to M/S.S.DEENADHAYALAN Advocate SR.No.1605(I) DT: 08/02/2024

ORDER
IN
CMP(MD) No.10058 of 2023
IN
AS(MD) No.134 of 2014
Date :07/02/2024

PKP/JGB/SAR /13.02.2024/ 3P/3C

Madurai Bench of Madras High Court is issuing certified
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