



WEB COPY

CMP No. 6765 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-03-2025

CORAM

THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI

CMP No. 6765 of 2024

in

SA SR No.2870 of 2024

B.Munusamy(died)

Rep. By Lrs.

1.Pattu

and 7 others

Appellant(s)

Vs

JAMUNA

Respondent(s)

PRAYER

To condone the delay of 939 days in filing S.A against the Decree and Judgement in AS.No. 24 of 2018 dated 09.03.2021 on the file of the Subordinate Judge, Thiruvallur affirming the judgment and decree dated 20.07.2015 in O.S.No. 214 of 2007, on the file of District Munsif, Thiruvallur.

For Appellant(s): Mr. Suriyamuthu N

For Respondent(s): Mr R Krishnaswamy For R1
RR 2 To 6 - Vacated



ORDER

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This Civil Miscellaneous Petition has been filed seeking to condone the delay of 939 days in filing the above Second Appeal against the judgment and decree dated 09.03.2021 passed in AS.No. 24 of 2018 on the file of the Subordinate Judge, Thiruvallur affirming the judgment and decree dated 20.07.2015 in O.S.No. 214 of 2007, on the file of District Munsif, Thiruvallur.

2. Mr.N.Suriyamuthu, learned counsel for petitioners submitted that while shifting the office of counsel, the bundle was misplaced and mixed up other disposed bundles, so, it could not be traced out. Hence, the petitioners are not able to file the Second Appeal within a stipulated time. Thereafter, only during the 1st week of January 2024, it was traced out. Subsequently, they gave instructions to file the Second Appeal. However, there is a delay of 939 days in filing the above second appeal arose, which is neither wilful nor wanton. Therefore, he filed this petition to condone the delay in filing the above second appeal.

3. Mr. R.Krishnaswamy, learned counsel for 1st respondent/plaintiff appeared and raised strong objections stating that proper application was not filed to implead legal heirs of deceased appellant Munusamy. But, on perusal of cause title, the appellant Munusamy is shown as deceased appellant, represented by his legal heirs and filed this petition. Hence, there is a technical

error arose. Accordingly, he prayed to dismiss this petition.



3. Considering the facts and circumstances, and the reasons stated by the petitioner in the affidavit stating that due to misplace of bundle during shifting the office of appellants counsel, it could not be filed within a stipulated time, which seems to be justifiable one and to avoid multiplicity of proceedings and the fact that the suit is pending from the year of 2007, this court is inclined to get over the technicality without prejudice to the objections raised by the learned counsel for 1st respondent and to allow this petition on condition that the petitioners shall pay a cost of Rs.1000/- payable to the learned counsel for 1st respondent within a period of two 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 25.03.2025.

11-03-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

N.B. : Issue order copy on 14.03.2025

To

1. Subordinate Judge, Thiruvallur.

2. District Munsif, Thiruvallur.

3. Mr. R.Krishnaswamy, Advocate

Singapore Plaza, 337, L.C. Street, Chennai.



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T.V.THAMILSELVI J.

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SA SR. No. 2870 of 2024**

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