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CMP NO. 10579 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04-04-2025**

CORAM

THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI

CMP NO. 10579 of 2023

AND

SA SR NO. 48822 OF 2023

Jeyanthi
W/o Late Palanisamy, Kabilarmalai Road,
Paramathy, Paramathy Velur tk, Namakkal Dist.

Appellant(s)

Vs

Dharmalingam
S/o Ramasamy Gounder, Kuchikattu Thottam,
Punjay Edayar West Village, Velur Post,
Paramathy Velur Tk, Namakkal District and 6
Others

Respondent(s)

SA SR NO. 48822 of 2023

JEYANTHI

Appellant(s)

Vs

DHARMALINGAM

Respondent(s)

CMP NO. 10579 of 2023

For Appellant(s):

S Senthil
R. Anbukarasu



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J Karuppiah
D Vairamoorthy
M Prem Kumar
R Vivek
K M Arun
K Gokul
S Thirumurugan

For Respondent(s):

L.P.Shanmugasundaram

THIRUMOORTHY

V.Kamaraj

For R1

R-7 PAPPATHI W/o Vasudevan, Kolakkattupudur
Post, Paramathy Velur Tk, Namakkal District

R2 - No Such Person

Rr3 & 4 - Left India

R5 - Deceased

R6 - Left

Pvt. Notice

R-5 PALANIAPPAN S/o Kalianna Gounder Unjakadu,
Velagoundampalayam, Agrahara Vengarai Village,
Kolakkattupudur Post, Paramathi Velur Tk, Namakkal
District



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R1 - Not Known

Rr 3 & 4 - Left India

R7 - Refused

R6 - Deliverd On 08.06.2023

(tracking Sheet With Postal Receipt Only Filed)

SA SR NO. 48822 of 2023

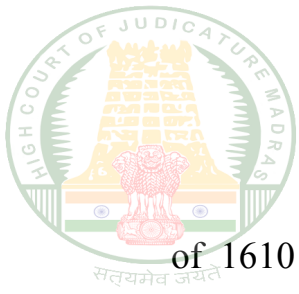
For Appellant(s):
For Respondent(s):

ORDER

This Petition has been filed to condone the delay of 1610 days in filling the above S.A.SR.No.48822 of 2023.

2. Heard the learned counsel for the appellant, and learned counsel for the respondents and perused the material available in the record.

3. The learned counsel for the appellant submitted that the appellant is a widow lady. Due to lack of proper communication and guidance, she was unable to file the appeal within the prescribed time, so there is a delay



of 1610 days. He further submitted that the delay is neither willful nor wanton.

4. The learned counsel for the respondents has already filed objections, stating that based on the decree, he initiated executed proceedings by filling an execution petition. It was only thereafter that the appellant came forward with the appeal, without providing any sufficient or justifiable reason for the inordinate delay. Hence, he raised strong objections to the condonation of delay.

5. The learned counsel for the appellant submitted that the first appellate Court failed to consider the fact that the plaintiff claimed the total sale consideration was fixed as Rs.1,50,000/- and that an advance amount of Rs.1,30,000/- was allegedly paid on the date of execution of the sale agreement ie., on 25.11.1996. However, a bare perusal of Ex.A1 (sale agreement) and the plaintiff's Cross-examination clearly reveals that no consideration was actually passed on 25.11.1996. Moreover, the unregistered agreement appears to have been ante-dated to 25.11.1996 but



was executed on a stamp paper dated April 1998. This strongly suggests that the sale agreement was forged and fabricated. Therefore, the delay in filling the appeal is neither wilful nor deliberate. If the appellant is not given an opportunity to defend the case, her valuable rights will be defeated.

6. On being satisfied with the averments stated in the affidavit filed in support of the petition and the submissions made by the learned counsels, on both sides, this Court is inclined to condone the delay, subject to costs.

7. The petitioner / appellant is directed to pay a sum of Rs.3,000/- (Rupees Three thousand only) to the contesting respondent / R1, within a period of two weeks from the date of receipt of a copy of this order. On such payment, the delay of 1610 days in filling this second appeal in S.A.SR.No.48822 of 2023, stands condoned.



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T.V.THAMILSELVI, J.

rr

8. Accordingly, this Civil Miscellaneous petition is allowed.

9. Registry is directed to list the above Second Appeal after numbering the same, if they are otherwise in order, on 29.04.2025.

04.04.2025

rr

To
Jeyanthi
W/o Late Palanisamy, Kabilarmalai Road,
Paramathy, Paramathy Velur tk, Namakkal Dist.

CMP.No.10579 of 2023
in
S.A.SR.No.48822 of 2023

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