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C.M.P. No. 20654 of 2024
in S.A.SR.No.111460 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-03-2025

CORAM

THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI

**CMP No. 20654 of 2024
AND
SA SR NO. 111460 OF 2023**

LOGANATHAN

Appellant(s)

Vs

R.Pazhani

Respondent(s)

PRAYER

To condone the delay of 446 days in filing the above SA.SR.111460/2023

For Appellant(s): Mr.T.K.S.GANDHI

For Respondent(s): Mr. P.Vasanth

ORDER

This Civil Miscellaneous Petition has been filed seeking to condone the delay of 446 days in filing the above Second Appeal against the judgment and decree dated 02.06.2020 passed in A.S.No.78 of 2019, on the file of Principal District Judge, Villupuram confirming the judgment and decree passed in O.S.No.488 of 2015 dated 18.07.2017 on the file of I Addl. Subordinate Judge, Villupuram.



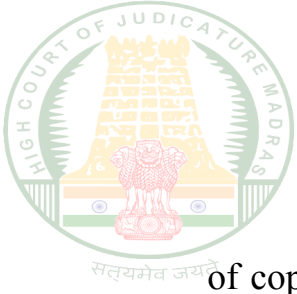
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2. Mr.T.K.S.Gandhi, learned counsel for appellant submitted that as he is unable to get the papers in time and due to deficit court fee, it was not filed in time. Only during the first week of June 2024, he gave instructions to file the Second Appeal. However, there is a delay of 446 days in filing the above second appeal arose, which is neither willful nor wanton. Therefore, he filed this petition to condone the delay in filing the above second appeal.

3. Mr. P.Vasanth, learned counsel for respondent appeared and raised strong objections stating that the reason for the delay is not correct one, besides he had also appeared before the Executing Court. Even after getting knowledge of execution proceedings, he has not filed the appeal within a stipulated time and the delay of 446 days is totally wrong, since the delay might have been 1400 days. He would also submit that with false affidavit, he has approached the court. Hence, the delay ought not to have been condoned and prayed to dismiss this petition.

4. On perusal of records, the first appeal was dismissed on 02.06.2020. Admittedly, it is a covid pandemic period, but it was not stated in the affidavit. However, pursuant to relaxation granted by the Hon'ble Supreme Court considering the Covid-19 pandemic with regard to the limitation for preferring appeals and on seeing the facts, the sale deed was executed by the plaintiff through execution proceedings, no prejudice would be caused to condone the delay and to give valid opportunity to contest the case. Accordingly, this court is inclined to allow this petition on condition that the petitioner shall pay a cost of Rs.3000/- payable to the learned counsel for respondent within a period of one week from the date of receipt



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of copy of this order. On such payment, Registry is directed to number the Second Appeal if it is otherwise found to be in order and post the matter on 20.03.2025.

03.03.2025

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N.B. : Issue order copy on 04.03.2025



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T.V.THAMILSELVI, J.

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