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CRP NO. 3452 of 2023
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-11-2025

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

CRP No. 3452 of 2023 and CMP No.21435 of 2023

S.Kesavan

Petitioner

Vs

Padminibai

Respondent

Revision filed under Section 115 of Civil Procedure Code against the order and decretal order passed in I.A.No.1 of 2022 inn unnumbered AS No.... of 2022 on the file of Principal District Judge, Salem dated 31.07.2023 dismissing the application to condone the delay of 1417 days in representing the first appeal.

For Petitioner:M/s.C.K.M. Appaji

For Respondent: Mr.L.Mouli

ORDER

Heard the learned counsel for the petitioner and the learned counsel for the respondent.

2. The present revision is filed challenging the dismissal of the



application in I.A.No.1 of 2023 filed to condone the delay of 1417 days in representing the first appeal, challenging the decree passed in O.S.No.540 of 2015.

3. The suit was filed for recovery of money and the same was decreed. Though the appeal was filed in time, the appeal was not diligently prosecuted and there has been delay in representing the first appeal. Hence, in order to condone the delay in representation, the petitioner filed an application in I.A.No.1 of 2022, however, the said application came to be dismissed and challenging the same, the present revision has been filed.

4. The junior counsel on record has filed his personal affidavit stating that subsequent to the appeal being returned, he had misplaced the bundle in the Office and also mingled with other papers and it could not be traced and thereafter also, due to Covid Pandemic, the appeal could not be filed and finally papers were traced and by the time it was represented and there was a delay of 1417 days.

5. The said application has been resisted by the learned counsel for the



respondent/decreed holder.

6. The trial Court, finding that the reasons adduced by the petitioner were not satisfactory and the execution petition has also been laid even in the year 2021, proceeded to dismiss the application.

7. In view of the delay being on account of the mistake committed by the counsel and cannot be attributed to the party and Covid Pandemic period also come to the rescue of the petitioner in seeking exclusion of the limitation period, I do not find that trial court should have dismissed the application, especially when the decree for recovery of money has been passed after contest and more so, the appeal has been filed in time. At the same time, the plaintiff should not be prejudiced on account of the delay and he should be compensated.

8. In the light of the above, the order passed in I.A.No.1 of 2022 in Unnumbered A.S.No.... of 2022 is set aside on condition that the petitioner pays cost of Rs.50,000/-(Rupees Fifty Thousand Only) to the

P.B.BALAJI,,J



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respondent/plaintiff within a period of eight weeks from the date of receipt of a copy of this order.

9. With the above direction, the civil revision petition is allowed.
Consequently, connected miscellaneous petition is closed.

14-11-2025

Index:yes/no
Website:yes/no
Speaking Order/Non-Speaking Order
sr

To

1. The Principal District Court, Salem
2. The Principal Subordinate Court, Salem

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