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CMP NO. 26359 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31-01-2025

CORAM

THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI

CMP NO. 26359 of 2024

AND

SA SR NO. 130735 OF 2024

M. Rangaraj
S/o. Late Mokkiah, 14/144, Kekketti Village,
Ketti Post, The Nilgiris.

Appellant(s)

Vs

M. Bettaraj
S/o. Late Mokkiah, Kekketti Village, Ketti Post,
The Nilgiris.

Respondent(s)

SA SR NO. 130735 of 2024

M.Rangaraj

Appellant(s)

Vs

M.Bettaraj

Respondent(s)

CMP NO. 26359 of 2024

For Appellant(s):

R. Sivakumar

For Respondent(s):

No Appearance

SA SR NO. 130735 of 2024



For Appellant(s):

For Respondent(s):

ORDER

This Petition has been filed to condone the delay of 788 days in filling the above S.A.SR.No.130735 of 2024.

2. The learned counsel for the appellant / petitioner submitted that the respondent, by taking undue advantage of the dismissal of the First appeal, is preventing the petitioner and his family members from using the pathway. If the respondent is allowed to continue with imposing restrictions than the petitioner will be put to irreparable loss and hardship. He further submitted that the petitioner had applied for the certified copy of the order dated 12.04.2022 and the certified copy was made ready only on 06.05.2022, some senior members of our community namely R.Dharuman and Nanjan had advised him not to continue to litigation. In respect to their advice and also considering that the respondent is his younger brother, he made an attempt to resolve the issue before the village panchayat. Accordingly, the elder members of the village had convened meetings on several occasions to



resolve the issues between the petitioner and the respondent. Unfortunately, the respondent had not even come forward to attend the above meetings.

Hence, the wishes of the elders were not materialized. Only thereafter the petitioner sent the certified copies of the decree and judgment passed by the trial court and appellate Court to his counsel to prefer the present appeal, thereafter he came to know that there was a delay of 788 days in preferring the present appeal. He neither willful nor negligent in filling the appeal in time. It was only because of their request made by the elders of the community. The petitioner had made earnest efforts to resolve the issue amicable with the respondent, unfortunately because of the non-co-operation of the respondent they were not able to reach any settlement. Hence if the delay is not condoned he will be put to irreparable loss and hardship, on the other hand the respondent would take advantage of the same to prevent from using the pathway thereby he reached his house from the village common pathway.

3. The learned counsel for the respondent raised objection to this submission.



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4. Considering the submission made by both side counsels and to avoid multiplicity of proceedings, this Court is inclined to condone the delay, subject to costs.

5. The petitioner / appellant is directed to pay a sum of Rs.2,000/- (Rupees Two thousand only) to the Tamil Nadu Legal Service Authority, Chennai, within a period of two week from the date of receipt of a copy of this order. On such payment, the delay of 788 days in filling the S.A.SR.No.130735 of 2024, stands condoned.

6. Accordingly, this Civil Miscellaneous petition is allowed.

7. Registry is directed to list the above Second Appeal after numbering the same, if they are otherwise in order, on 13.02.2025.

31-01-2025



CMP NO. 26359 of 2024

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To

1. M. Bettaraj

S/o. Late Mokkiah, Kekketti Village, Ketti Post, The Nilgiris.

SA SR NO. 130735 of 2024

1. M.Bettaraj

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