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C.M.P. No. 28982 of 2024
in S.A.SR.No.137560 of 2024

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T.V. THAMILSELVI, J.

This Civil Miscellaneous Petition has been filed seeking to condone the delay of 4636 days in filing the above Second Appeal against the judgment and decree passed in Cross Objection in A.S.No.20 of 2004 dated 31.10.2011, on the file of Addl. District Court at Namakkal confirming the judgment and decree passed in O.S.No.445 of 1995 dated 12.11.2003 on the file of Principal District Munsif Court, Namakkal.

2. Mr.P.Navaneetha Krishnan, learned counsel for appellant submitted that against the common judgment passed in A.S.No.20 of 2004, Cross Objection in A.S.No.20 of 2004, A.S.No.21 of 2004 and A.S.No.22 of 2004 dated 31.10.2011, he had filed the Second Appeals in S.A.No.211 to 213 of 2012. However, his erstwhile counsel returned the case papers to the appellant on account of his old age. Thereafter, he engaged the present counsel and on consulting with his senior advocate, he was informed that cross objection was not challenged along with other Second Appeals. Subsequently, after obtaining the certified copy of decree passed in cross-objection, the above Second Appeal was filed on 14.10.2024, due to which, there is a delay of 4636 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.



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4. Mr.Sam Jayaraj Houston, learned counsel for respondents 1, 2, 5 and 6 appeared and raised strong objections stating that no sufficient reason stated for the said delay.

5. Considering the facts and circumstances, and the reasons stated by the petitioner stating that already challenging the common judgment and decree passed in A.S.Nos. 20 to 21 of 2004, the Second Appeals in S.A.Nos. 211 to 213 of 2012 were filed, however, when the erstwhile counsel returned the case papers due to his old age, the present counsel on record on consulting with his senior advocate informed that cross objection was not challenged along with other Second Appeals and thereafter on obtaining the certified copy of decree passed in cross-objection, the above Second Appeal was filed on 14.10.2024, which seems to be justifiable one and to give one more opportunity and to avoid further multiplicity of proceedings, this court is inclined to allow this petition. Registry is directed to number the Second Appeal if it is otherwise found to be in order and post the matter on 03.07.2025 along with connected S.A.Nos.211 to 213 of 2012.

28.04.2025

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S.A.SR.. No. 137560 of 2024

28.04.2025

(1/3)