



WEB COPY

CMP No. 2058 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-03-2025

CORAM

THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI

CMP No. 2058 of 2025

and

SA SR No. 36097 of 2023

Muthu Naicker (died)

1. M.Gunasekaran

and 6 others

Appellant(s)

Vs

VIJAYA

and 5 others

Respondent(s)

PRAYER

To condone the delay of 280 days in filing the Second Appeal SR.No. 36097/2023

For Appellant(s): Mr. Swathish Kumar for
M/s Sarvabhuman Associates

For Respondent(s): Mr.A. Gouthaman For RR1 To 6



ORDER

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This Civil Miscellaneous Petition has been filed seeking to condone the delay of 280 days in filing the above Second Appeal against the judgment and decree dated 20.11.2021 passed in A.S.No.35 of 2018, on the file of Sub-Court at Arakkonam confirming the judgment and decree passed in O.S.No.99 of 2007 dated 22.03.2017 on the file of District Munsif Court, Sholinghur.

2. Mr.Swathish Kumar, learned counsel for appellants submitted that as the papers in connection with Appeal Suit in A.S.No. 35 of 2018 was not available, the same was obtained and thereafter, due to lack of communication, the appellants were not able to come to Chennai and to engage his counsel. Only during the last week of July 2024, they gave instructions to file the Second Appeal. However, there is a delay of 280 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. Considering the facts and circumstances, and the reasons stated by the petitioner in the affidavit stating that original 7th defendant died and due to lack of communication, their legal heirs not able to file the appeal within a stipulated time, which seems to be justifiable one and the fact that to avoid multiplicity of proceedings as well as to give one more opportunity, this court is inclined to allow this petition on condition that the petitioner shall pay a cost of Rs.2500/-



payable to the learned counsel for respondents 1 to 6 within a period of two weeks from the date of receipt of copy of this order. Registry is directed to number the Second Appeal if it is otherwise found to be in order and post the matter on 02.04.2025.

07-03-2025

rpp

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

N.B. : Issue the order copy on 10.03.2025



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T.V.THAMILSELVI J.

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SA SR No.36097 of 2023**

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