



CMP NO.7142 OF 2026
IN S.A.NO.924 OF 2004

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2026

CORAM

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

CMP NO.7142 OF 2026

IN

S.A.NO.924 OF 2004

1.Kamalam (Died)

2.Sabapathy

S/o.M.Thangappan

No.6, Nanjappa Chetty Street,

Rasipuram Town, Rasipuram Taluk,

Namakkal District.

Presently residing at

No.62, Town Bank Street,

Rasipuram,

Namakkal District.

... Petitioner / 2nd Appellant

Vs.

Thirunavukarasu

S/o. Venkatachala Udayar

Ezil Nagar, Pazhapudi,

Salem District.

... Respondent / Respondent

PRAYER: Civil Miscellaneous Petition filed under Order XLI Rule 19 of the Code of Civil Procedure, 1908, praying to set aside the Judgment dated April



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10, 2018 made in S.A.No.924 of 2004 on the file of this Court dismissing the Second Appeal for non-prosecution and restore the above appeal on the file of this Court.

For Petitioners : Mr.N.Ponraj
For Respondent : Mr.G.Palani

ORDER

Mr.N.Ponraj, learned Counsel for the petitioner is before this Court. Mr.G.Palani, learned Counsel for the respondent is before this Court through Video Conferencing Mode.

2.Heard both sides. This Court has perused the case file and the affidavit filed in support of this Civil Miscellaneous Petition.

3.Mr.N.Ponraj, learned Counsel appearing for the petitioners submits that the Civil Miscellaneous Petition in CMP No.6256 of 2003 filed to condone the delay of 1705 days in filing the petition to restore the Second Appeal was allowed by this Court by an Order dated August 24, 2003 and this Civil Miscellaneous Petition is a consequential petition. Accordingly, he prays to allow this petition, set aside the Judgment passed by this Court and restore the Second Appeal on file.



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4.Mr.G.Palani, learned Counsel appearing for the respondent has opposed this petition and prayed to dismiss the petition.

5.On perusal of records, it is seen that this Court has already allowed the Civil Miscellaneous Petition in CMP No.6256 of 2023 filed under Section 5 of Limitation Act, 1963 praying to condone the delay of 1705 days in filing an application to restore the Second Appeal by an Order dated August 24, 2023 subject to payment of costs. The said Order has been complied with.

6.This Civil Miscellaneous Petition has been filed praying to set aside the Judgment dated April 10, 2018 made in S.A.No.924 of 2004 dismissing the Second Appeal for non-prosecution and restore the Second Appeal to the file of this Court. This petition is a consequential petition.

7.Having satisfied with the reasons stated in the accompanying affidavit, this Civil Miscellaneous Petition is allowed and the Judgment dated April 10, 2018 passed by this Court is set aside and the Second Appeal is restored to the file of this Court.

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R.SAKTHIVEL, J.

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