



WEB COPY



C.M.P.No.31808 of 2025
in
OSA Sr.No.52865 of 2025

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C.V.KARTHIKEYAN, J.
and
K.KUMARESH BABU, J.

(Order of the Court was made by C.V.Karthikeyan, J.)

This petition has been filed to condone the delay of 191 days in filing the appeal against the common judgment and decree dated 16.08.2024, passed by a learned Single Judge on the Original Side of this Court in Tr.C.S.No.14 of 2023.

2.Tr.C.S.No.14 of 2023 had been filed seeking partition and separate possession of the suit schedule property. The suit was resisted by the respondents herein and the defendants in the said suit placing reliance on a registered Will executed by the father bequeathing to the respondents/defendants in the suit. With respect to the grant of probate of the said Will, TOS No.37 of 2021 had been filed. Joint trial was conducted in both Transfer C.S. and in the TOS. By judgment dated 16.08.2024, the learned Single Judge had dismissed Tr.C.S.No.14 of 2023 and had granted probate in TOS No.37 of 2021.



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3. Notice had been directed in this application and the learned counsel also entered appearance and had also filed a counter. But, we would however take into consideration, the relationship among the parties and take into consideration the fact that all issues necessarily will have to be re-agitated and place emphasis on the fact that the respondents are in possession of the property in accordance with the Will executed by the father.

4. Holding that view, we would condone the delay. It is also informed that a separate appeal has also been filed questioning the grant of probate. Registry to number the appeal, if it is otherwise in order.

sli

(C.V.K.J.,) (K.B.J.,)
22.01.2026



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