



WEB COPY



CMP No.2414 of 2026
in
A.S. SR.No.207645 of 2025

C.V. KARTHIKEYAN ., J.
and
K.RAJASEKAR., J.

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

The third party/City Union Bank Limited in its capacity as mortgagee of the suit property, sought leave to file appeal against the judgment and decree dated 20.01.2025 in O.S.No.2155 of 2024 on the file of the XVI Additional City Civil Court, Chennai.

2. The present application has been filed to condone the delay of 216 days in filing the appeal. Even earlier, the petitioner had filed CMP No.1364 of 2026 seeking leave to file the appeal, since they were not impleaded as defendant in the suit.

3. A Division Bench of this Court by order dated 22.01.2026 had observed as follows:

“2. The learned counsel for petitioner submits that the respondents had obtained loan by mortgaging the suit property in



the year 2016, but suppressing the same, a suit has been filed by the family members and settled the matter in Mediation. Now, it is the case of the learned counsel for the petitioner that the petitioner Bank being the earlier mortgagor, their statutory rights as a secured creditor have been affected and it directly prejudices recovery of loan amount and hence, he seeks leave of this Court to file a third party appeal. He would further submit that the proceedings have already been initiated under the SARFAESI Act, 2002.

3. Considering the above submissions, this Court is of the view that the petitioner Bank's rights have been affected in view of the compromise decree passed in O.S.No.2155 of 2024 dated 20.01.2025. Hence, leave is granted to file an appeal against the compromise decree dated 20.01.2025."

4. The plaintiff, who is the first respondent herein who had filed I.A.No.1 of 2024 seeking to implead the present petitioner/appellant as a further defendant in the suit, and even before the same could be ordered by the Court, had withdrawn the same by making an endorsement as not pressed and later the plaintiff and the defendants had entered into a settlement among themselves.



5. Counter has been filed on behalf of the respondents 3 and 4. But how-
ever, in view of the fact that the appellant has come to the Court claiming that fraud had been placed while obtaining the judgment and decree and that the appellant had been deliberately not made as a party to the suit at the time when the suit was instituted, we would condone the delay and permit the respondents to raise all arguable points at the time of final hearing, including whether the appellant was a necessary and proper party to the suit.

6. The delay is condoned. Registry to number the appeal, if it is otherwise in order.

[C.V.K.,J.] [K.R.S.,J.]

24.03.2026

mrp



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