

I.A.No.3/2023 in O.S.No.42/2019

Date: 24.01.2024

ORDER

Plaintiff in O.S.No.42/2019 is the Petitioner in the present Application, which is filed u/s 5 of the Limitation Act praying this Court to condone the delay of 40 days in filing the Petition under Order 9 Rule 9 CPC.

2) According to the Petitioner, his Mother died on 15.04.2022 and that since, he was performing the last rites and rituals, he could not appear before this Court on 25.07.2022 and he could not give instructions to his Counsel and that resulted in dismissal of the Suit on 25.04.2022. There is a delay of 40 days in filing the Restore Petition and therefore, the delay may be condoned.

3) Petitioner side enquiry was heard on 12.01.2024 and today, when the above Application is taken up for Respondents side enquiry, the Respondents Counsel would submit that the above Application may be allowed by imposing suitable cost.

4) Considering the reason for the delay, the nature of the Suit and the submission made by Learned Counsel appearing for the Respondents, this Court is inclined to allow the above Application by imposing suitable cost.

In result, the above application will be allowed on condition that the Petitioner shall pay a sum of Rs.1,000/- towards cost to the Respondents on or before 06.02.2024. Failing which, the above application will be dismissed.

Call this application on 07.02.2024.

III ADJ,
Salem.