



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-08-2026

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMP No. 3767 of 2026

in

SA.SR.No.22176 of 2026

1. P.Anandhi

C/o.Ponnusamy, No.3/39, Don Bosco
Nagar, Tirupattur Town, Tk and Dist.

2. Minor R.Loshini Varshita

D/o.P.Ramasamy, Rep.by mother
P.Anandhi, No.3/39, Don Bosco Nagar,
Tirupattur Town, Tk and Dist.

3. Minor. R.Kamali Varshita

D/o.P.Ramasamy, Rep.by mother
P.Anandhi, No.3/39, Don Bosco Nagar,
Tirupattur Town, Tk and Dist.

Appellant(s)

Vs

1. P. Chandra

D/o.Ponnusami Mudaliar,
W/o.Dhanapal, No.68/37, Samad Sahib
St, Kodyur, Jolarpettai post, Vellore
Dist.

2.P. Rajeswari

D/o.Ponnusamy Mudaliar,
W/o.k.G.Easwaran, No.8, Samad Sahib
St, S.Kodyur, Jolarpettai Post,
Tirupattur Tk, Vellore Dist.

3.P. Palanisami

S/o.Ponnusamy Mudaliar, Navaladiyar
Koil St, Thennanthoppu Village,
Maganur, Namakkal Dist.



4.P. Govindaraj
S/o.Palanisamy, Navaladiyar Koil St,
Thennanthoppu Village, Maganur,
Namakkal Dist.

5.P.Kanimozhi
D/o.Palanisamy, Navaladiyar Koil St,
Thennanthoppu Village, Maganur,
Namakkal Dist.

6.P. Malliga
D/o.Ponnusamy, W/o.Arumugam,
Navaladiyar Koil St, Thennanthoppu
Village, Maganur, Namakkal Dist.

7.P. Balasubramaniam
S/o.Ponnusamy Mudaliar, Samad Sahib
St, S.Kodiyur, Chakkarakuppam
Hamlet, Jolarpettai post, Tirupattur Tk,
Vellore Dist.

Respondent(s)

PRAYER

To condone the delay of 2704 days in filing this appeal in SA.Sr.22176/2026 and thus render justice.

For Appellant(s): MR..Sudesh Kumar

For Respondent(s): Mr.E.Sathiya Moorthy For R1
R-2 And R7 - No Appearance
Rr3, 4 To 6 - Insufficient
Address

ORDER

The petitioner has filed this application to condone the delay of 2704 days in filing the appeal in S.A.SR.No.22176 of 2026.



2. The petitioner and the minor children appeared before this Court along with their respective counsel. The learned counsel for the first respondent also appeared before this Court.

3. The learned counsel for the petitioner submitted that the petitioner married one Ramaswamy and that they have two minor daughters. Ramaswamy is the son of Palanisamy, and the said Palanisamy and the plaintiff are brother and sister. A suit for declaration and partition was filed by the plaintiff before the Subordinate Court, Tirupattur, in O.S.No.87 of 2004. The said suit was contested by the petitioner's husband, Ramaswamy, from the year 2004 onwards.

4. After hearing both sides, the trial Court dismissed the suit. Aggrieved by the said judgment and decree, the fifth defendant preferred an appeal in A.S.No.22 of 2014 before the III Additional District Judge, Vellore at Tirupattur. The First Appellate Court reversed the findings of the trial Court and decreed the suit. Based on the said decree, a final decree application has been filed and a Commissioner has also been appointed to divide the property. The said proceedings are pending.



5. At this stage, the petitioner has come forward with the present application stating that the original suit proceedings were being conducted by her husband, Ramaswamy. She had already obtained a decree of divorce from him by mutual consent on 29.01.2021. Even prior to the divorce, due to misunderstanding, she had left the matrimonial home along with the children in the year 2014. Subsequently, Ramaswamy died on 27.10.2024. It is submitted that, pursuant to the mutual consent divorce, no permanent alimony was paid to her and no maintenance was paid to the children. He further submitted that after the demise of Ramaswamy, when the Commissioner attempted to measure the property, the petitioner came to know about the final decree proceedings and also about the disposal of the original suit and the appellate proceedings. Immediately thereafter, she came forward with the present application seeking to condone the delay and to challenge the findings of the Courts below. Hence, she prayed for condonation of the delay.

6. The learned counsel for the first respondent strongly opposed the application and submitted that the first petitioner is an advocate by profession and that the said Ramaswamy was also an advocate by profession. Both of them were actively practising in the locality, and therefore, the petitioner was very much aware of the pendency and progress of the proceedings from the date of institution of the suit in the year 2004. It was contended that the petitioner had deliberately avoided the proceedings and had come forward with the present



application only at the stage of the final decree proceedings, with a view to harass the respondents, who have been contesting the matter from the year 2004 onwards.

7. The learned counsel for the first respondent further submitted that even after the petitioner and Ramaswamy separated, she was well aware of the Court proceedings. The reason assigned for the enormous delay is not sufficient. In support of his contention, he relied upon the judgment of the *Hon'ble Supreme Court in N. Balakrishnan v. M. Krishnamurthy, reported in (1998) 7 SCC 123*, particularly paragraphs 8 and 13.

“8. The appellant's conduct does not on the whole warrant to castigate him as an irresponsible litigant. What he did in defending the suit was not very much far from what a litigant would broadly do. Of course, it may be said that he should have been more vigilant by visiting his advocate at short intervals to check up the progress of the litigation. But during these days when everybody is fully occupied with his own avocation of life an omission to adopt such extra vigilance need not be used as a ground to depict him as a litigant not aware of his responsibilities, and to visit him with drastic consequences.

13. It must be remembered that in every case of delay, there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or it is not put forth



as part of a dilatory strategy, the court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time, then the court should lean against acceptance of the explanation. While condoning the delay, the court should not forget the opposite party altogether. It must be borne in mind that he is a loser and he too would have incurred quite large litigation expenses. It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant, the court shall compensate the opposite party for his loss.”

8. Considering the submissions made on either side, it is an admitted fact that the first petitioner is an advocate by profession and is presently working as an Additional Public Prosecutor. She separated from her husband in the year 2021 pursuant to a decree of divorce by mutual consent. She is presently living with her two minor children. She has also stated that she left the matrimonial home along with the children in the year 2014.

9. It is seen that Ramaswamy had been conducting the proceedings throughout his lifetime. After his demise, the final decree proceedings were initiated by the respondent, and only thereafter did the petitioner come to know about the proceedings and the findings rendered by the Courts below. On a consideration of the entire facts and circumstances, it is seen that the original plaintiff, Rajeswari, filed the suit for declaration and partition in respect



of two settlement deeds standing in the names of the first petitioner's husband, Ramaswamy, and his brother and sister. The validity of the said settlement deeds is the subject matter of challenge in the suit.

10. The defence taken by Ramaswamy, the husband of the first petitioner, was that the settlement deeds had been executed by his grandfather with full consent and that the said settlement deeds were valid. However, after considering the oral and documentary evidence adduced by both parties, the trial Court decreed the suit as prayed for. The said judgment and decree were subsequently reversed by the First Appellate Court. After the disposal of the appeal, Ramaswamy died. Therefore, as his legal heirs, the minor children are entitled to challenge the findings rendered by the Courts below, subject to their legal rights.

11. Though the first petitioner, being an advocate by profession, was likely to have been aware of the proceedings, as rightly contended by the learned counsel for the first respondent, this Court cannot lose sight of the fact that the two minor children are also affected by the decree under challenge. Their interest and welfare require consideration while deciding the present application.



12. Though there is an enormous delay of 2704 days, considering the peculiar facts and circumstances of the case, particularly the interests and welfare of the minor children, this Court is inclined to condone the delay, subject to the rights and objections of the respondents in the appeal.

13. It is also seen that the two minor children are presently under the care and custody of the first petitioner and that, during his lifetime, Ramaswamy had not paid any maintenance to the children. It is further seen that Ramaswamy's father, Palanisamy, had three sisters and one brother, and one of the sisters is the plaintiff in the suit. Properties had been allotted to the respective members of the family. As rightly pointed out by the learned counsel for the first respondent, settlement deeds had been executed in favour of the concerned persons and those settlement deeds have been acted upon. However, the settlement deeds executed in favour of Ramaswamy and his brother alone are under challenge in the present proceedings.

14. It is also relevant to note that the suit properties comprise a hotel and a Kalyana Mandapam situated in Tirupattur Town, measuring approximately 10,000 square feet. Having regard to the nature and extent of the property, as well as the rights and interests of the minor children, this Court is of the considered view that the delay deserves to be condoned.



15. **Accordingly, this Civil Miscellaneous Petition is allowed** and the delay of 2704 days in filing the appeal is condoned.

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16. The respondents are directed to appear before this Court on 24.08.2026. The personal appearance of the petitioner and her minor children is dispensed with.

17. Registry is directed to list the above Second Appeal after numbering the same, if they are otherwise in order, on 24.08.2026.

19-08-2026

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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