



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-07-2026

WEB COPY

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

CMP No. 18241 of 2026

in

SA Sr.No.27168 of 2007

CMP No.18241 of 2023:

Arulmigu Muppillaimamman Deity
Arulmigu Muppillaiamman Devasthanam, Rep. by
its Fit Person and Executive Officer, Villivakkam,
Chennai 600 049.

..Petitioner(s)

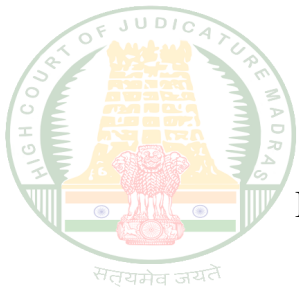
Vs

- 1.M.S.Ramachandran (died)
- 2.D.Vasanthi
- 3.Vaijayanthimala
- 4.C.R.Krishnakumari
- 5.D.Jayalalitha
- 6.M.E.Santha Rajan
- 7.T.Thara
- 8.M.E.Kishore
- 9.M.E.Chitra
- 10.M.E.Sridharan
- 11.M.R.Sivakumar

..Respondent(s)

CMP No. 18241 of 2026

To condone the delay of 4779 days in filing the petition to accept the
cause title.



For Petitioner(s):

Mr.A.K.Sri Ram, Senior Counsel
for Mr.V.Srikanth

WEB COPY For Respondent(s):

Mr.T.R.Rajagopalan, Senior Counsel
for Mr.V.Vidyesh for R11

Common Order

The case has been pending from 2007 before this Court on account of an error committed by the Lower Appellate Judge and compounded by the learned counsel who was appearing for the appellant at that point of time.

2. The suit was originally presented on the original jurisdiction of this Court in C.S.No.909 of 1993. Thereafter, on enhancement of the pecuniary jurisdiction, the suit was transferred to the file of the V Assistant City Civil Court and re-numbered as O.S.No.10309 of 2006. The suit, after contest, came to be dismissed on 27.10.2004. Aggrieved by the same, the plaintiff preferred an appeal in A.S.No.218 of 2005. The I Appellate Court, dismissed the appeal on 29.09.2006. However, in the decree, it was mentioned as if it was dismissed on 29.09.2005. This error, which had been committed by the Registry of the City Civil Court, ought to have been rectified by the counsel by bringing it to

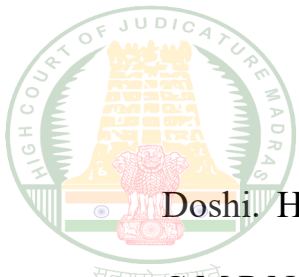


the attention of the Registry that the date in the decree did not tally with the date in the judgment. Instead of choosing that option, the plaintiff presented the

second appeal before this Court on 05.04.2007.

3. The Registry of this Court calculating the limitation on the basis of the decree of the Appellate Court, called upon the petitioner to file an application to condone the delay of 463 days in filing the second appeal. This application was numbered as M.P.No.2 of 2009. Notice was ordered in the application and despite the petitioner having effected service on a few of the respondents, this court by an order dated 10.12.2012, dismissed the said application for want of taking steps through substituted service.

4. In order to restore the application which had been dismissed for non - taking of steps, the petitioner filed two applications, to condone the delay in filing the restore petition and a restoration petition. The condone delay petition was numbered as M.P.No.2 of 2013. Pending that said application, the first respondent, Mr.M.S.Ramachandran, passed away. Thereafter, the said application was allowed by this Court on 15.06.2023. The main application to restore was numbered as C.M.P.No.14354 of 2023. In the meantime, the property was dealt with by the 1st defendant and sold in favour of two persons, M/s.Doshi Developers and Builders Private Limited and one Ms.Yashumati



Doshi. Having purchased the properties, they have taken out applications in C.M.P.Nos.14396 and 14399 of 2026 to implead themselves in the proceedings.

WEB COPY

5. All these applications were listed before me on 09.07.2026. At that time, it was brought to my notice by Mr.A.K.Sriram, learned Senior Counsel appearing for Mr.V.Srikanth, that the erroneous date in the decree had since been amended and a fresh certified copy had been issued. After perusal of the same, this Court was convinced that the main application in M.P.No.2 of 2009 itself was unnecessary and the appellant had been jumping through hoops for nothing. As the appeal had been presented within the time prescribed, the main application itself was unnecessary. Hence, the question of filing an application to restore the main application did not arise. Consequently, that petition was dismissed.

6. At that stage, Mr.Lakshmipathy brought to the notice of this Court that steps had not yet been taken to bring on record the legal representatives of the deceased first respondent. Mr.A.K.Sriram, pointed out that in fact, two applications have been filed in C.M.P.Nos.8505 and 8512 of 2025 in C.M.P.No.14354 of 2023 in S.A.SR.No.27168 of 2007. He also brought to the notice of this Court that the LR petition itself had been ordered by this Court on 23.04.2025 and on that basis, amendment had been carried out. The records

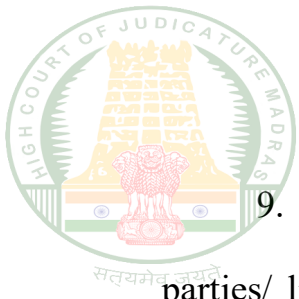


reveal Mr.Sivakumar, the legal heir of the deceased first respondent, Mr.M.S.Ramachandran, had been brought on record.

WEB COPY

7. He urged that as the legal representatives had already been brought on record in C.M.P.No.14354 of 2023, the benefit would enure to the appellant in S.A.Sr.No.27168 of 2007. I was not in a position to countenance the said argument, as the narration would show that all the earlier applications were entirely unnecessary. Therefore, I called upon the appellant to file a fresh application to bring on record the legal representatives of the first respondent, Mr.M.S.Ramachandran, in the second appeal. This direction was given on the basis of the judgment of the Full Bench of this Court in *Adusumilli Gopalakrishnayya v. Adivi Lakshmana Rao*, reported in *AIR 1925 Mad 1210 (FB)*.

8. Subsequently, Mr.Srikanth, filed applications to condone the delay in filing the petition to accept the cause title and an application to accept the cause title. As this is an application under Section 5 of the Limitation Act, I called upon Mr.Lakshmipathy, to file a counter on behalf of Mr.Sivakumar, the proposed legal representative of the deceased first respondent.



WEB COPY

9. Mr.Lakshmipathy has filed a counter and so have the proposed parties/ lis pendens purchasers. I am not going to take into consideration the counter affidavit filed by the lis pendens purchasers, as they have not yet been impleaded as parties to the appeal. In any event, whatever right Mr.M.S.Ramachandran had, a portion thereof has been transferred to the lis pendens purchasers and they have filed applications to come on record. Mr.Sivakumar and M/s.Doshi Developers and Builders Private Limited and Ms.Yashumati Doshi represent the estate, as they are the legal representatives of the deceased Mr.M.S.Ramachandran.

10. The objection of Mr.Lakshmipathy is that the Executive Officer of the appellant temple was aware of the death of Mr.M.S.Ramachandran, since he was arrayed as a defendant in two other proceedings, C.S.No.881 of 2009 and C.S.No.276 of 2011. He states that as a defendant, he had also filed a proof affidavit showing that Mr.M.S.Ramachandran had died. Therefore, the failure to take steps in the present second appeal cannot be condoned by this Court.

11. It is the plea of Mr.Lakshmipathy that the temple had also filed an appeal in A.S.No.218 of 2005 and was contesting O.S.No.8565 of 2019 before the concerned Courts and was fully aware of the death. He urges that in the



WEB COPY

land acquisition proceedings initiated by the National Highways Authority of India, compensation had been received by Mr.M.S.Ramachandran and subsequently, Mr.M.S.Ramachandran, had settled 45 grounds out of 7 acres and 46 cents in Survey No.166 in favour of Mr.Sivakumar, by way of a Settlement Deed dated 20.04.2005. Hence, he pleads that the application to condone the delay should be dismissed.

12. I carefully considered the submissions of Mr.Abhijeet Krishna and Mr.Lakshmipathy. At the outset, I should point out that I am not considering the submissions of Mr.T.R.Rajagopalan, learned Senior Counsel, who is appearing for Mr.V.Vidyesh as he represents the lis pendens purchasers, who have yet to come on record.

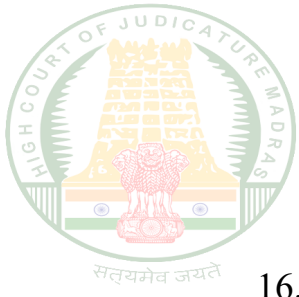
13. Insofar as the objections raised by Mr.Lakshmipathy are concerned, I have already narrated that this Court was convinced with the reasons given by the appellant and had ordered the applications in C.M.P.Nos.8508 and 8512 of 2025. The said orders have not been challenged by Mr.Sivakumar in the manner known to law. This is the first point which goes in favour of the appellant.



WEB COPY

14. Secondly, merely because a party has been arrayed as a defendant in the suit, knowledge cannot be imputed to him, as the steps are to be taken by the plaintiff and not by the co-defendant. Put it in clarity, in both the suits in which Mr.M.S.Ramachandran and the appellant/temple were contesting, they had been arrayed as defendants. As per the Code of Civil Procedure, steps to bring on record the legal representatives have to be initiated by the plaintiff and not by a defendant.

15. Thirdly, under Order XXII Rule 10-A of CPC, it is the duty of the counsel appearing for the deceased defendant or respondent to inform the appellant/plaintiff regarding the death of his or her client. Such a procedure had not been followed in this case. Had Mr.Lakshmipathy informed Mr.V.Srikanth about the death of Mr.M.S.Ramachandran and Mr.V.Srikanth or his client had not taken steps thereafter, certainly I would not have entertained the application. When a duty is cast upon the counsel for the deceased party to inform the other side and such duty is not discharged, the averment made in the affidavit that the party came to know of the death only later and immediately took steps has to be accepted. I am strengthened in this view by a recent judgements of the Supreme Court in ***Binod Pathak & Ors. vs. Shankar Choudhary & Ors., (2025 INSC 842)*** and ***Om Prakash Gupta @ Lalloowa vs. Satish Chandra, (2025 INSC 183).***



WEB COPY

16. Since the issue relates to vital rights over immovable property within the city of Chennai, I am not inclined to reject the application merely on the ground of delay, for the reasons aforesaid. As pointed in *Perumon Bhagavathy Devasom vs. Bhargavi Amma & Ors., ((2008) 8 SCC 321)* [Paragraphs 13 & 15], applications to condone delay in filing applications to bring on record legal representatives should not be given the same strict consideration as condone delay in filing the appeals. Hence, the delay stands condoned. The cause title is accepted. Registry is directed to carry out the amendments. C.M.P.No. 18241 of 2026 stands ordered.

23-07-2026

VKR/VSG

($\frac{1}{2}$)



WEB COPY



V.LAKSHMINARAYANAN J.

VKR

**CMP No.18241 of 2026
in SA Sr.No.27168 of 2007**

**23-07-2026
($\frac{1}{2}$)**