



CMP.No.3900 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 25.03.2025

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

CMP.No.3900 of 2025
in AS.SRNo.1136 of 2025

Krishnan (Deceased)
Rajukutti @ Raju (Deceased)

1.D.Kulamagal
2.D.Mythili
3.D.Ramya
4.D.Gautham Prabhu

... Petitioners

Vs

1.Thilakavathy
2.Ceylon Mani
3.Sakila

.. Respondents

Prayer in CMP.No.3900 of 2025: Petition filed under Order 41 Rule 3A of CPC read with Section 5 of the Limitation Act seeking to condone the delay of 976 days in filing the above appeal.

Prayer in Appeal Suit: Appeal filed under Section 96 of Code of Civil Procedure to set aside the judgment and decree dated 10.11.2022 in O.S.No.3990 of 2015 on the file of the learned Principal XIX Additional City Civil Court, Chennai.

For Petitioners : Mr.N.Kumar

For Respondents : Mr.G.Mohanarangan

ORDER

This petition has been filed seeking to condone the delay of 976 days in



CMP.No.3900 of 2025

filing the above appeal.

WEB COPY 2. The reasons assigned in the affidavit filed in support of this petition is that the suit property originally belonged to the mother in law of the first respondent Shantha Ammal by virtue of settlement deed dated 23.11.1974. She died on 31.07.1993. Shantha Ammal during her lifetime sold certain portion of the properties, thereafter, her father in law had executed a settlement deed dated 10.02.2012. According to the petitioners, they engaged a counsel namely one Mohan, who in turn entrusted the case to another counsel namely Asaithambi. The said Asaithambi died during Covid. Thereafter, they had no information about the case. They came to know about the decree later. Unfortunately, certified copy of decree and judgment were not filed, thereafter, with great difficulty, certified copies were obtained. Thus, the delay.

3. Counter has been filed by the respondent disputing the contentions of the learned counsel for the petitioner that the reasons assigned by the petitioner are sham and nominal. Hence, seeks for dismissal of the petition.

4. Heard the learned counsel for both sides and perused the materials placed on record.



CMP.No.3900 of 2025

WEB COPY5. At the outset, this Court is of the view that merely by blaming the lawyer, such delay cannot be condoned as a matter of right. The petitioners ought to be vigilant in following the case. Mere entrusting the matter to the lawyer does not end the responsibility of the litigant. Without taking any steps, now casually making allegations that they have no information about the case, such huge delay cannot be condoned. All these facts would indicate the callous attitude of the appellant and that cannot be brushed aside altogether.

6. Of course, the expression“sufficient cause” should receive a liberal construction so as to advance substantial justice when no negligence or inaction or want of bona fide is imputable to a party. Casually filing the petition to condone the delay in filing without any proper reasons, such huge delay cannot be condoned. A Court granting indulgence must be satisfied that there was diligence on the part of the appellant and that he was not guilty of any negligence whatsoever. Where there is no sufficient cause for condoning the delay, the said delay should not be condoned as it amounts to a case of discretion not being exercised judicially.

7. Further, even on merits, the written statement filed by the defendants



CMP.No.3900 of 2025

would indicate that the property belonged to Shantha Ammal / mother in law.

WEB COPY

N.SATHISH KUMAR, J.

Therefore, after her death, the property devolved as per Section 15 of the Hindu Succession Act. Such being the position, defendants namely the appellants relying upon the settlement deed executed by one of the legal heirs in respect of the entire property does not arise at all.

8. This Court is of the view that the Trial Court granting preliminary decree does not require interference at all. At any event, there was no proper reasons assigned by the petitioners to condone such delay.

9. Accordingly, this petition stands dismissed and the un-numbered appeal suit stands rejected. No costs.

25.03.2025

Index : Yes/No

Internet : Yes/No

dhk

CMP.No.3900 of 2025
in AS.SRNo.1136 of 2025

To,

1. The XIX Additional Judge
XIX Additional City Civil Court, Chennai

<https://www.mhc.tn.gov.in/judicial>



CMP.No.3900 of 2025

2.The Section Officer
VR Section, Madras High Court