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CMP No. 9009 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-07-2025

CORAM

**THE HONOURABLE DR.JUSTICE ANITA SUMANTH
AND
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR**

**CMP No. 9009 of 2024
AND
OSA SR NO. 50195 OF 2024**

1. Anusuya Devi N
W/O.Thiru Sambasiva Rao, No.1/21,
Mahalakshmi Flats, Rakkiappan Street,
Chennai 600 004.

Appellant(s)

Vs

1. S.Nirmala Devi
W/o.Thiru C.J.Suresh, Presently
residing at No.10, Ambigai Flats,
Second Floor, Arundal Street,
Mylapore, Chennai 600 004

2.N.Madhava Rao
S/o.Thiru M.A.V.Narayana Road,
No.3/421, Rajiv Gandhi Salai,
Kazhipattur 603 103.

3.M.Aravind Kumar
S/o.Thiru M.A.V.Narayana Road,
No.3/421, Rajiv Gandhi Salai,



CMP No. 9009 of 2024



Kazhipattur 603 103.

4.M.Gopinath

WEB S/O.Thiru M.A.V.Narayana Road,
No.3/421, Rajiv Gandhi Salai,
Kazhipattur 603 103.

Respondent(s)

OSA SR No. 50195 of 2024

1. Anusuya Devi

Appellant(s)

Vs

1. S.Nirmala Devi

Respondent(s)

CMP No. 9009 of 2024

PRAYER

To condone the delay of 742 days in preferring the instant appeal.

OSA SR No. 50195 of 2024

PRAYER

CMP No. 9009 of 2024

For Appellant(s): Mr. Srinath Sridevan, Senior
Counsel For Mr. Guru
Dhananjay, For Appellant

For Respondent(s): Mr. Sirish Chaudhary, For T.M.
Naidu and Co For R1,
Mr.T.N.Rajagopalan For Rr2,3
and 4



ORDER

(Order of the Court was made by Dr.Anita Sumanth J.)

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This is a petition seeking condonation of delay of 742 days in filing the Original Side Appeal challenging order dated 18.08.2020 passed in O.A.No.1196 of 2019 in C.S.No.730 of 2019.

2. By way of background, C.S.No.730 of 2019 had been filed by one Nirmala Devi, applicant in O.A.No.1196 of 2019, seeking partition of various properties set out in ten schedules. The prayer in O.A.No.1196 of 2019 was for an adinterim injunction restraining the respondents from alienating, selling or encumbering any of the schedule mentioned properties at schedules I, IV, V and VI.

3. Properties in schedules VII and VIII are not material for the purpose of the present application. The ambit of the present application concerns properties in schedules II, III, IX and X.

4. Our attention is drawn by Mr.Srinath Sridevan, learned Senior Counsel appearing for Mr.Guru Dhananjay, learned counsel on record for the petitioner to a finding at paragraph 8 of the impugned order to the effect that no injunction



can be granted in respect of properties in schedules II, III, IX and X as *'the respondents' title has been admitted to some extent'*.

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5. It is to be noted that there are four respondents in the application. R1 to R3, being the father and two brothers of the petitioner, who is R4 in O.A.No.1196 of 2019. Hence, their contention before us is that the observation above is not correct as far as she is concerned and she does not admit the title of the respondents. Clearly, that is an issue that is to be decided in the suit. Hence, the non-grant of injunction on the basis of that observation is, in our considered view, incorrect.

6. Be that as it may, we are, in this application, concerned with the condonation of delay of 742 days, which is contested seriously by Mr.T.N.Rajagopalan, learned counsel for R2 to R4 alone. To be noted, though R1 is also equally aggrieved by the observations at paragraph 8 of the impugned order, she has not filed any appeal against order dated 18.08.2020 but sails along with the petitioner herein. There are two loggerheads only as far as the Suit is concerned.

7. On the question of delay, Mr.Rajagopalan, would point out that the



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delay is, in fact, not 742 days, but far more. In stating this, he has, in our view, not taken note of the judgment of the Supreme Court *In Re: Cognizance For Extension of Limitation* dated 10.01.2022 extending the period of limitation in those matters where limitation expires between 15.03.2020 and 28.02.2022, by a period of 90 days commencing from 01.03.2022. This means, in the present case, that limitation would stand extended till 01.06.2022.

8. Undoubtedly, the appeal has been filed only after the elapse of 742 days commencing from 01.06.2022 onwards. Thus the computation of delay at 742 days is correct.

9. Mr.Rajagopalan persists stating that the petitioner had knowledge of the impugned order dated 18.08.2020. For this purpose, he would refer to paragraph 2 of the petition where the petitioner states that at that point in time, her interests were being taken care of by her sister/plaintiff/applicant, but that they thereafter fell apart. He would also draw attention to paragraph 4 of the common counter, where there is reference to the filing of W.P.No.24720 of 2021, where orders were passed on 19.01.2022. An application had been filed by the petitioner on 23.03.2022 seeking to clarify the aforesaid order.

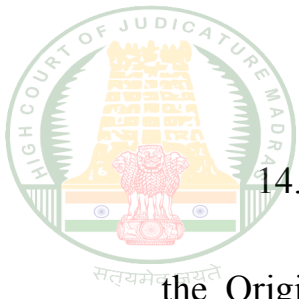


10. We are not persuaded by the aforesaid argument for the reason that the order in W.P.No.24270 of 2021 was passed on 19.01.2022 and clarification was sought on 23.02.2022, proximate to the end of the pandemic period. This would not mean that the extension of limitation under order dated 10.01.2022 is not available to the petitioner.

11. Even assuming for the moment that she was aware of impugned order dated 18.08.2020, she is still entitled to the extension of limitation as per the order of the Supreme Court dated 10.01.2022. Hence, we reiterate that the computation of delay at 742 days is correct.

12. As far as the reasons for the delay are concerned, the petitioner has produced voluminous medical records of the treatment for Parkinson's and Cancer of her husband Mr.Sambasiva Rao, from October, 2018 till his demise on 27.03.2025.

13. Taking an overall view of the matter, particularly the prolonged illness suffered by her husband, we are of the view that sufficient cause has been made out for the condonation of delay of 742 days in filing the Original Side Appeal and hence, the delay is condoned.



14. The Miscellaneous Petition is ordered. Registry is directed to number the Original Side Appeal, if it is otherwise in order, and list the same for admission. At request of Mr.T.N.Rajagopalan, learned counsel for R2 to R4, his name will continue to figure in the cause list as and when the OSA is listed for admission.

(ANITA SUMANTH J.)(N.SENTHILKUMAR J.)

sl

25-07-2025

Index: Yes/No

Speaking order

Internet: Yes

Neutral Citation: Yes



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**ANITA SUMANTH J.
AND
N.SENTHILKUMAR J.**

Sl

To

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