



WEB COPY

A.No.3282 of 2025 in
TOS.No.13 of 2024

C.V.KARTHIKEYAN, J.

This application has been filed to condone the delay of 279 days in filing the written statement in TOS.No.13 of 2024 by the second defendant and filing memos to adopt the said written statement by the defendants 3 to 5.

2. The defendants 3 to 5 are the legal heirs of the deceased first defendant. The first and second defendants are brothers. Initially, the respondent / plaintiff had filed an Original Petition in O.P.No.35 of 2023 relating to the Will which is said to have been executed by D.Rajalakshmi. On caveat being filed, O.P.No.35 of 2023 had been converted as TOS.No.13 of 2024. The first defendant had unfortunately died, necessitating his legal heirs to be brought on record as the defendants 3 to 5. The second defendant has filed the present application seeking to condone the delay of 279 days in filing the written statement and the defendants 3 to 5 have filed adoption memos to adopt the said written statement.

3. Heard the learned counsel for the respondent / plaintiff also.



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4. It is trite in law to point out that it would only be to the advantage to both the plaintiff and the defendants that the Will is tested to remove any iota of suspicion. The Will has to be tested in the manner known to law. The presence of the defendants is required for such procedure to be adopted by the Court. In view of that particular fact, this application is allowed and the delay is condoned.

15.07.2025

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