



WEB COPY

CMP No. 22120 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-12-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

**CMP No. 22120 of 2024
in SA.SR.No.36445 of 2024**

1. K.Chandrasekar @ Sankar
2. Mrs.V.Vasanth
3. Mrs.M.Vimala
4. Mr.S.Bala Murugan
5. Mr.D.Thiyagu @ Thiyagarajan
6. Mrs.S.Vanaja
7. Mrs.S.Ranjini
8. Mrs.N.Bhavani

Appellant(s)/Petitioners

Vs

1. Mrs.S.Shanmugham and 56 others

Respondent(s)

For Appellant(s): Mr.N.Saravanan

For Respondent(s): Mr.V.Ragupathy For R8
Mr.K.P.Santhosh For Rr49 And
57 No Appearance -r1 To R8 And
50 To 56

**ORDER**

This CMP is filed praying to condone the delay of 3051 days in preferring the above SA.SR.36445 of 2024.

2. According to the petitioners, they are the legal heirs of the deceased K.Chandrasekar @ Sankar, who is the 59th defendant in the suit in O.S.No.162 of 2005. 57th respondent is the 2nd plaintiff.

3. The 1st petitioner is the son of the 1st plaintiff - Alamelu Ammal who died pending proceedings. Thereafter, suit was contested by 2nd plaintiff and it was dismissed. Against which, appeal in A.S.No.32 of 2012 was filed which was contested by the 2nd plaintiff- brother Gopinath -Appellant therein. The first appeal was also dismissed by judgment dated 14.10.205. Thereafter, the said Gopinath/2nd plaintiff left the family and leading a life of Sanyasi and settled at Varanasi and due to lack of communication in the appeal proceedings, the other legal heirs were unable to file appeal in time; further the mother Alamelu Ammal is having sons and that they are having valid defence and therefore, they have come forward with this appeal and condone delay petition with prayer to condone the delay in filing the Second Appeal.



4. Learned counsel for the contesting respondent – R8 raised objections submitting that the mental illness stated in the affidavit was not supported by any material evidence. Further, there is no proper explanation for each and every day delay which is required under law. Therefore, sufficient cause was not assigned. Therefore, this CMP to condone the delay is to be dismissed as there is no merits.

5. Considering the submissions made on both sides and also considering the concurrent findings of the courts below and that the 2nd plaintiff who is the elder brother who stayed along with his mother who contested the proceedings thereafter, lived the life of Sanyasi at Varanasi and due to lack of communication in the suit proceedings, they were not able to file appeal within time.

6. Taking note of the above submissions and the objections raised by learned counsel appearing for R8 and that the delay is huge i.e. 3051 days which is 9 years delay in filing the appeal before this court and that relief of partition is claimed by other legal heirs, and the mother is having valid right in the property and the sons of the mother are also having legal right to get the property and also considering that there is a huge delay of 9 years in filing this Second appeal



and also considering the fact that as admitted, as on date, the properties are enjoyed by the respondents, this court is of the view that no loss would be caused to them in allowing this CMP. Therefore, this court is inclined to allow this CMP subject to payment of cost of Rs.5,000/- [Rupees Five thousand only] to the contesting 8th respondent counsel within two weeks.

7. On payment of cost of Rs.5000/- and on filing the cost memo, the appeal shall be taken on file by numbering the Second Appeal.

8. This petition is ordered on the above terms.

19-12-2025

nvsri



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T.V.THAMILSELVI J.

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