



OSA.No.224 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2025

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CORAM :

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

**O.S.A.No.224 of 2025
and CMP No.15086 of 2025**

1. K.Krishnan
2. K.Arumugam
3. Mrs.Dhanabackiyam
4. Mrs.Chandrakala
5. Parthasarathy
6. Dhanalakshmi

.... Appellants

VS

- K.Elumalai (Deceased)
1. M.Kamala
 2. Megala & Manimekalai
- M.Pandian (Deceased)
3. M.Rani @ Angayarkanni
 4. M.Elavarasi
 5. M.Elango
 6. P.Krishnaveni
 7. P.Arthi

.. Respondents

Prayer : APPEAL filed under Order 36 Rule 1 of the OS Rules read with Clause 15 of the Letters Patent against order dated 21.04.2025 passed in A.No.1899 of 2025 in C.S.No.703 of 2011 on the file of this Court.



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For Appellant : Mr.S.Santhosh Kumar

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J U D G M E N T

(Judgment of the Court was delivered by Dr.ANITA SUMANTH..J)

The challenge is to order dated 21.04.2025 passed in A.No.1899 of 2025. The prayer in the application was to condone the delay of 4792 days in filing the written statement in C.S.No.703 of 2011. That application came to be allowed, however putting the appellant to terms. The condition imposed was that the appellants shall remit a sum of Rs.1.00 lakh to the respondents by way of Demand Draft within a period of three (3) weeks from date of receipt of a copy of that order. The order has been received by the appellants on 30.06.2025.

2. Mr.Santhosh Kumar, learned counsel for the appellants would vehemently assail the imposition of costs pointing to the fact that the Suit was, in fact, transferred to the City Civil Court on account of pecuniary jurisdiction on 12.10.2020. Thereafter, there was lack of clarity on the forum before which the Suit shall be heard and this, according to him, led to the delay in filing written statement.

3. He would submit that in fact, the submission of the respondents that it ought to be transferred was found to be incorrect and vide order dated 30.03.2023, the respondents were asked to file a review application



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seeking re-transfer which ultimately came to be filed with a delay of 1073 days. The delay had been condoned on 09.01.2024 and the re-transfer has happened only subsequently. He would emphasize the position that the appellants were always ready with the written statement and draw our attention to order dated 09.02.2023, wherein this Court also recorded the fact that the appellants are ready to file written statement.

4. The aforesaid narration relates to the period 2020 till date. However, and admittedly, the appellant has received summons on 23.12.2011 and there is no whisper of the delay between that date and 2020 when the suit was, in fact, transferred to the City Civil Court, albeit erroneously.

5. Hence, it is an admitted position that the appellants have not bothered to file a written statement between 2011 and 2020 and they cannot hence, take any advantage of the events post 2020 relating to transfer of the suit.

6. In light of the aforesaid, we find nothing untoward in the imposition of costs of Rs.1.00 lakh and in fact, considering the length of delay, we are inclined to enhance the amount. However, having regard to the plea of the learned counsel for the appellants, we desist.



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DR. ANITA SUMANTH,J.

and

N. SENTHILKUMAR.,J

7. This Original Side Appeal and the connected Miscellaneous
Petition are dismissed. No costs.

**[A.S.M., J] [N.S., J]
03.07.2025**

sl
Index:Yes/No
Speaking order
Neutral Citation:Yes

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