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C.M.P.No.18047 of 2025 in A.S.(SR.) No.101939 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2025

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THE HON'BLE DR. JUSTICE G. JAYACHANDRAN

**C.M.P.No.18047 of 2025
in A.S.(SR.) No.101939 of 2025**

P. Vasanthamani

... Petitioner/ Appellant

-VS-

1. Sarojini

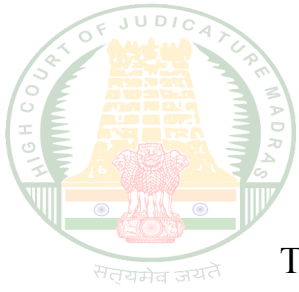
2. P. Thangavelu

... Respondents/ Respondents

Prayer: This Civil Miscellaneous Petition is filed under Order 41 Rule 3A of CPC R/w Section 5 of the Limitation Act to condone the delay of 3279 days in preferring the appeal in A.S.(SR.) No.101939 of 2025.

For Petitioner : Mr. Shangar Murali

For Respondents : No Appearance



ORDER

The suit for specific performance to enforce a contract dated 06.01.2003 was dismissed by the Trial Court, vide judgment dated 23.03.2016. Aggrieved by the dismissal of the suit, the appeal is preferred by the plaintiff with a delay of 3279 days.

2. The reason for the delay is stated as the illness of the appellant's husband followed by illness of the appellant. The medical records also enclosed to substantiate the reasons stated for the delay, the discharge summary of R.Palanisamy (husband of the appellant/ P.Vasanthamani) enclosed along with this condone delay petition indicates and reveals that he was admitted in the hospital on 08.08.2017 at 12:28 AM and discharged on 08.08.2017 at 01:49 PM for Acute Enteritis, again he was admitted on 12.06.2018 and got discharged on 14.06.2018 after taking treatment for two days and he died on 11.07.2018. The appellant/ P.Vasanthamani was admitted in the hospital on 18.01.2023 and got discharged on 24.02.2023 for her illness related to Accelerated Hypertension, Acute Cerebrovascular Accident, Left Thalamic Hemorrhage and Right Hemiparesis.



3. Their own documents in way of medical records would show that the illness of the appellant's husband or the illness of the appellant cannot be a cause for not preferring the appeal in time. The appeal got disposed on 23.03.2016, whereas the copy application itself was made only on 25.02.2025. Thus, it is very clear with the reasons stated for condoning an enormous delay of 3279 days is not properly explained and in a case of a specific performance suit, the ready and willingness is one of the main component to decide the merit of the case. In this case, the Trial Court after testing the evidence has held against the plaintiff. The appeal is preferred almost 8 years after the judgment and the reasons stated for the delay is not sufficient.

4. For the said reasons, the condone delay petition stands dismissed. Consequently, the appeal in A.S.(SR.) No.101939 of 2025 is dismissed at the SR stage itself. There shall be no order as to costs.

25-07-2025

stn

Dr. G. JAYACHANDRAN, J.,



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To

The V Additional District Judge, Coimbatore.

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